Explanatory notes to the Bill

General notes

1. Introduction

1.1. Background and main purpose of the Bill

The Act on Greenland Self-Government (*lov om Grønlands Selvstyre*) was adopted by the Danish Parliament on 19 May 2009 and came into force on 21 June 2009.

The Act on Greenland Self-Government establishes that a transfer of responsibility for the mineral resource area to the Greenland Self-Government may be effected and that, as a result, the Greenland Self-Government will then exercise legislative and executive powers in the mineral resource area. The field of responsibility of mineral resources is included in list II of the schedule to the Act on Greenland Self-Government. According to the provision in section 3(2) of the Act on Greenland Self-Government, fields of responsibility included in list II of the schedule will transfer to the Greenland Self-Government as and when determined by the Self-Government following negotiations with the authorities of the Danish Realm.

The responsibility for the mineral resource area transferred to the Greenland Self-Government on 1 January 2010.

At the same time as the transfer of responsibility for the mineral resource area to the Greenland Self-Government on 1 January 2010, Greenland Parliament Act no. 7 of 7 December 2009 on mineral resources and mineral resource activities (the Mineral Resources Act) (*råstofloven*) came into force. The Mineral Resources Act was adopted in order to ensure appropriate exploitation of mineral resources and utilisation of the subsoil in Greenland and activities in relation thereto. Since coming into force in 2010, the Mineral Resources Act has been amended several times to update and adapt the Act to developments in the mineral resource area, the mineral resources industry and society.

The mineral area, which forms part of the mineral resource area, is of significant importance to Greenland and society.

The Government of Greenland wants to continue the development of the mineral resource area, including the mineral area, so it becomes an even more important area of activity and a significant industry in Greenland. Therefore, the Government of Greenland has prepared,

among other things, a strategy for the mineral area for Greenland under the heading of "Greenland's Mineral Strategy 2020-2024". The purpose of the strategy is especially to provide a good framework for the mineral area to enable Greenland to offer attractive opportunities and good conditions to create, develop and carry out mineral projects and investments therein in Greenland. A continued development of the mineral area will contribute to creating more jobs and services in the mineral area and to ensuring that the mineral area contributes to a greater extent with revenue for the Treasury and the economic development in Greenland for the benefit of society.

The Bill forms part of the Government of Greenland's strategy to maintain and further develop Greenland as a good and attractive country compared with other countries with a great mineral exploitation potential. In the Government of Greenland's assessment, good and clear framework conditions and regulation are two important factors in order to attract and retain enterprises and investors to the mineral area in Greenland.

The Mineral Resources Act in Greenland governs all aspects of mineral resource activities and exploitation of mineral resources and the subsoil, including, but not limited to, using the subsoil for the purpose of storage, hydrocarbon activities and mineral activities, prospecting, exploration and exploitation licences concerning hydrocarbons and minerals, small-scale licences, collection and extraction of minerals without a licence and matters relating to environmental protection and social sustainability.

Under the Bill, the area of general mineral activities in the mineral area will generally be separated from the other parts of the mineral resource activities which are comprised by the Mineral Resources Act, including hydrocarbon activities (oil and natural gas activities), use of the subsoil for storage purposes, small-scale mineral activities performed by local individuals and museums, and exploitation, collection and extraction of minerals by local individuals and enterprises without a licence thereto.

The Bill thus only concerns the general mineral activities in the mineral area in Greenland and environmental matters related thereto. The Bill does not concern use of the subsoil for storage purposes, hydrocarbon activities or small-scale mineral activities performed by local individuals and museums or exploitation, collection and extraction of minerals by local individuals and enterprises without a licence thereto or environmental matters in the small-scale mining area.

The Bill further aims to create an updated and a more simple, clear, appropriate and user-friendly Greenland Parliament Act for the mineral area, including environmental matters. The updating is envisaged to be based on, for example, practice and experience concerning the application of the Mineral Resources Act since its commencement on 1 January 2010 and the development of the mineral area and the mining industry in Greenland and internationally,

also in other countries with more extensive mineral activities and mining industries. A more simple, clear, appropriate and user-friendly Greenland Parliament Act for the mineral area is intended, for one thing, to make the act easier to interpret and apply in practice and to create better regulation for the Government of Greenland, current and potential future licensees under mineral licences and other parties in the mineral area.

The Bill lays down the basis and framework for the future regulation of the mineral area. The mineral area includes prospecting, exploration and exploitation of minerals and licences thereto and licences for scientific surveys as well as environmental matters in connection with such activities.

The regulation of these activities under the Bill is generally in accordance with national and international rules, principles and agreements concerning such activities. The Bill thus also contributes generally to the fulfilment of the Greenland Self-Government's obligations under national and international law. Furthermore, the regulation of these activities under the Bill is adapted to best national and international practices for the performance and regulation of such activities.

The Greenland Parliament Bill on mineral activities is generally based on the provisions of the Mineral Resources Act concerning minerals. However, to a certain extent, the Bill amends the provisions of the Mineral Resources Act on mineral activities in that the Bill takes into account the experience and knowledge gained on the basis of the Mineral Resources Act concerning minerals and the Bill thereby creates greater clarity about certain matters which are either not regulated at all or regulated less clearly or in less detail under the Mineral Resources Act.

However, the Bill generally re-enacts many important and appropriate provisions and principles from the Mineral Resources Act. For one thing, the principle of a collective and integrated approach to administrative processing is re-enacted. All relevant matters, including concerning the performance of mineral activities and technical, safety and resource matters, form part of a collective assessment of activities comprised by this Bill. Thus, the Government of Greenland will grant one collective licence, which generally covers all matters of importance to a mineral activity comprised by this Bill. This model was one of the main recommendations of the Ølgaard report from 1990 (which is mentioned in section 1.2 below) and has generally been used in the mineral resources acts for Greenland since then.

A collective and integrated approach to administrative processing promotes effective administration of the mineral area and increases user-friendliness for citizens and enterprises. The Bill thus also provides the basis and framework for the Government of Greenland to administer, manage and further develop the mineral area in a manner which is generally good and appropriate for the Greenland Self-Government, society, licensees and potential future

licensees under mineral licences and other parties in the mineral area

The Bill also re-enacts the licence system and approval system which have traditionally been used in the mineral resource area in Greenland. Thus, the activities comprised by this Bill may only be performed if the Government of Greenland has granted a licence thereto or an approval thereof under the relevant provisions of the Bill.

Under the tax legislation and the Bill, the Self-Government is generally entitled to receive a part of the revenue from the mineral activities, including in the form of income taxes from the licensees under mineral licences and their employees and suppliers of goods and services and, for exploitation licences, also a consideration (royalties) according to terms thereon. The Bill thus contributes to a certain extent to supporting and developing the economy of the Self-Government and society.

As a starting point, a licensee under an exploitation licence must pay a consideration (royalties) to the Government of Greenland when exploiting minerals in Greenland. By way of example, the royalty payable under an exploitation licence could be a royalty based on the exploited minerals (a production royalty), including, for example, their weight (a weight royalty) or their volume (a volume royalty). The royalty could also be based on the selling price of the exploited minerals or some other sales value (a sales royalty) or a share of the profits realised from the licensee's activities under the licence (a profits royalty).

The Bill thus in part replaces the Mineral Resources Act within the mineral area. This Bill does not replace the Mineral Resources Act as regards the use of the subsoil for storage purposes and the hydrocarbon area concerning hydrocarbon (oil and natural gas) prospecting, exploration and exploitation licences and activities under hydrocarbon licences, etc.

This Bill also does not replace the Mineral Resources Act as regards small-scale mineral activities performed by local individuals and museums or exploitation, collection and extraction of minerals by local individuals and enterprises without a licence thereto. This area and these matters are still regulated by the relevant provisions of the Mineral Resources Act. However, the Government of Greenland is planning to prepare and introduce a Greenland Parliament Bill on such small-scale activities and other activities, etc. (Small-Scale Mining Act). For more details, see section 2.9 below.

1.2. A historical retrospect

By royal decree of 27 April 1935, the principles of the Danish Subsoil Act also applied to Greenland.

Due to a growing interest in the exploration for and exploitation of mineral resources in Greenland, the Danish Government set up a commission in 1960 to draft a mining act for

Greenland. The commission issued its report in June 1963. The intention was to make exploration for and exploitation of mineral resources in Greenland as attractive as possible, while also safeguarding the public interest in an appropriate manner. In November 1964, the Government introduced a Bill on Mineral Resources in Greenland, which was based on the commission's report. The Bill was passed as Act no. 166 of 12 May 1965 on Mineral Resources in Greenland.

When Act no. 577 of 29 November 1978 on Greenland Home Rule came into force, a special system was thus established in the mineral resource area. The main principles of the mineral resource system were laid down in the Home Rule Act (*hjemmestyreloven*). The specific provisions for the mineral resource area were laid down in Act no. 585 of 29 November 1978 on Mineral Resources in Greenland. The most important aspects in terms of the mineral resource system were as follows:

(1) Recognition that the resident population of Greenland has basic rights to the natural resources of Greenland.
(2) Establishment of joint decision-making powers (mutual veto) for the authorities of the Danish Realm (the Government) and the Home Rule Government (regional government) regarding the major decisions concerning non-living resources in Greenland.
(3) Determination of the principles for distribution of public revenue from mineral resource activities in Greenland.
(4) Establishment of an equal-representation Danish/Greenland joint council called the Joint Council on Mineral Resources in Greenland.
(5) Establishment of a Mineral Resources Authority for Greenland under the Minister of Energy to handle the central administrative tasks in the mineral resource area. The Mineral Resources Authority was also envisaged to handle the tasks involved in being the secretariat of the Joint Council on Mineral Resources in Greenland.

In March 1988, the Home Rule Government and the Government concluded an agreement on principles for changing parts of the Greenland mineral resource system. The main principles were as follows:

(1) All revenue from the mineral resource system up to DKK 500 million in any year would be split 50% to the state and 50% to the Greenland Home Rule Government without set-off against the grants paid by the state to the Greenland Home Rule Government. The split of any revenue above and beyond this amount would be set by statute following negotiations between the Home Rule Government and the Government.
(2) The Home Rule Government and the state would each contribute up to DKK 12.5 million to a joint company, Nunaoil A/S, with a view to commercialising the mineral resource area.

(3) The influence of the Home Rule Government on the administration of the mineral resource area would be increased.
(4) The licence system (concession system) of the Mineral Resources Act would also apply to hydropower activities in Greenland.
(5) After 1 January 1995, each of the parties could demand negotiations to alter the mineral resource system.

This agreement in principle formed the basis for the preparation of the amended Mineral Resources Act that was adopted as Act no. 844 of 21 December 1988.

By agreement between the Premier of the Home Rule Government and the Minister of Energy, a working group was appointed in 1990 and given the task of formulating a proposed new strategy for the utilisation of mineral resources in Greenland. The working group outlined in a report, the Ølgaard report, a number of proposals for a new strategy for the exploitation of mineral resources in Greenland. This was done with a view to making the mineral resource sector an important industrial sector on a par with other industries in Greenland. Some of the main elements of the proposed new strategy were the introduction of significantly changed licence terms and a tax legislation which would be competitive as compared with the licence terms and tax legislation of other countries, as well as oil exploration onshore and in the continental shelf areas of Greenland through the launch of licensing rounds.

The working group's proposal for a new strategy for the mineral resource area led to the Bill to amend the Mineral Resources Act, which was adopted as Act no. 335 of 6 June 1991. The Act was intended to make it more attractive to invest in mineral exploration (hydrocarbons and minerals) in Greenland.

The main elements of the strategy include:

(1) Introduction of significantly changed concession terms, especially for the exploitation of minerals (hard minerals) with a view to offering terms which are competitive as compared with other countries.
(2) Initiation of oil exploration onshore and in continental shelf areas of Greenland, including in continental shelf areas in West Greenland, through the launch of licensing rounds in the 1990s.
(3) Implementation of amendments of Greenland tax legislation, first and foremost, for the purpose of providing competitive working conditions for the international mining industry and oil industry.
(4) Preparation of extensive information material on Greenland of a general and specific nature aimed at the international mining industry and oil industry.
(5) Preparation of information material on an ongoing basis aimed at the population of

Greenland concerning developments in the mineral resource area.

(6) Simplifications and adjustments in the Mineral Resources Authority's regulation of mineral resource activities, for example with regard to the environment and safety.

(7) The use of a more active and proactive approach on the part of public authorities in relation to the mining industry and oil industry with a view to promoting international investments in mineral resource activities in Greenland.

The Premier of the Home Rule Government and the Danish Prime Minister agreed in September 1992 that the power to grant licences for hydropower activities and the administrative processing thereof would transfer to the Home Rule Government (today, the Self-Government). This meant that hydropower resources were separated out from the mineral resource system by Act no. 1074 of 22 December 1993.

On the basis of the efforts to attract interest from the oil industry in offshore oil exploration, it turned out that there was a need to amend the Mineral Resources Act so as to make it more attractive to invest in exploration for mineral resources in Greenland. This led to an amendment of the Mineral Resources Act which was adopted by Act no. 303 of 24 April 1996.

By an amendment of the Mineral Resources Act with effect from 1 July 1998, the power to grant licences and the administrative tasks in the mineral resource area transferred from the Minister of Energy and the Mineral Resources Authority for Greenland under the Minister to the Greenland Home Rule Government and the Bureau of Minerals and Petroleum under the Home Rule Government. No changes were made to the other elements of the mineral resource system for Greenland.

Thus, the joint decision-making powers of the Home Rule Government and the state with regard to major decisions in the mineral resource area, including the requirement that the grant of licences under the Mineral Resources Act was subject to an agreement between the Government and the Home Rule Government, were not changed. The rules on distribution of public revenue from mineral resource activities and the rules on the tasks of the Joint Council were not changed, either.

The Mineral Resources Act predominantly builds on the strategy presented in the Ølgaard report and on the experience and knowledge accumulated in the Bureau of Minerals and Petroleum since 1998.

This Bill is largely based on a re-enactment of the mineral resource system and the regulation of the Mineral Resources Act with regard to minerals.

1.3. The Act on Greenland Self-Government and mineral resource system

It follows from an interpretation of the Act on Greenland Self-Government and the explanatory notes to the Act that the provisions of the Mineral Resources Act are in accordance with the provisions of the Act on Greenland Self-Government. It also follows from the Act on Various Matters in connection with the Greenland Self-Government (*lov om visse forhold i forbindelse med Grønlands Selvstyre*) and the explanatory notes to the Act that the Mineral Resources Act is also in accordance with the provisions of that Act. This was assumed by the Government of Greenland and the Greenland Parliament when drafting and passing the Mineral Resources Act.

In general, the provisions of this Bill correspond to the provisions of the Mineral Resources Act regarding the mineral area, including the provisions on prospecting for, exploration for and exploitation of minerals and licences thereto, scientific surveys in relation thereto and licences for scientific surveys.

1.3.1. Generally on the Act on Greenland Self-Government and the mineral resource system
The Act on Greenland Self-Government (*lov om Grønlands Selvstyre*) was adopted by the Danish Parliament on 19 May 2009 and came into force on 21 June 2009. Among other things, the background to the Act on Greenland Self-Government was a wish to ensure the greatest possible equality between Greenland and Denmark. The Act creates the legal framework for the transfer of additional powers concerning most areas of responsibility to Greenland.

Under the Act on Greenland Self-Government, the responsibility for the mineral resource area may transfer to the Greenland Self-Government. According to section 3(2) of the Act on Greenland Self-Government, areas of responsibility included in list II to the Act on Greenland Self-Government may transfer to the Greenland Self-Government as and when determined by the Self-Government following negotiations with the authorities of the Danish Realm. The mineral resource area is no. 26 on the list.

The responsibility for the mineral resource area was transferred to the Greenland Self-Government with effect from 1 January 2010. After the transfer of responsibility for the mineral resource area to the Self-Government, the Self-Government now exercises legislative and executive powers in the mineral resource area.

After the transfer of responsibility for the mineral resource area, the Greenland Self-Government has thus set the general framework and more detailed rules governing activities in the mineral resource area. In addition, the Greenland Self-Government has been in charge of the administration of the mineral resource area, including by granting licences to prospect for, explore for and exploit mineral resources and administrative processing regarding mineral resource licences and activities.

It follows from the Act on Greenland Self-Government that the Greenland Self-Government owns and has the unrestricted right to use and exploit the mineral resources in the subsoil of Greenland and that revenue from mineral resource activities accrues to the Self-Government. The Act on Greenland Self-Government sets specific rules on reduction of the state's annual grant to the Self-Government to the extent that the Self-Government's annual revenue from mineral resources exceeds DKK 75 million.

1.3.2. Economic relations and the distribution of revenue from mineral resource activities
The key contents of the system for economic relations between the Greenland Self-Government and the state under the self-government system are as follows:

(1) The state grants the Self-Government a fixed annual grant at the same level as the block grant granted so far.
(2) The Self-Government itself finances areas of responsibility that have transferred under the Act on Greenland Self-Government.
(3) Future revenue from mineral resource activities in the subsoil of Greenland will accrue to the Self-Government.
(4) The state's grant to the Self-Government is reduced by half of the amount by which revenue from mineral resource activities in Greenland exceeds DKK 75 million in any calendar year.
(5) If the state's grant to the Self-Government is reduced to DKK 0 at some point, negotiations must be opened between the Government of Greenland and the Government concerning the future economic relations.

Furthermore, the Self-Government is still entitled to obtain consultancy services from Danish research institutions and to access their research in the mineral resource area.

According to the explanatory notes to the Act on Greenland Self-Government with regard to the distribution of revenue from mineral resource activities in Greenland (general explanatory notes, section 5.3.3):

"*The development of the mineral resource area in Greenland constitutes a potentially significant element in the future industrial development in Greenland and thereby in the creation of revenue capable of replacing in whole or in part the state's grant, thus helping to make Greenland more economically self-sufficient.*

In that case, the positive effects of the mineral resource activities in Greenland society will result from general economic activity, including investments in the construction of facilities etc. and the employment of local labour for the operation etc. of the facilities, as well as from the revenue received by the public sector from the companies involved.

Under this Bill, the revenue from mineral resource activities in Greenland accrues to the Greenland Self-Government. However, in the Bill, trends in the state's grant are affected by the amount of public revenue that may result from mineral resource activities.

With this Bill, the state's grant to the Self-Government is thus reduced by an amount corresponding to half the revenue from mineral resource activities in Greenland which, in the calendar year concerned, exceeds DKK 75 million. The DKK 75 million deduction is based on a wish to increase the incentive for exploration and thus promote Greenland's economic self-sufficiency."

Also according to the explanatory notes to the Act on Greenland Self-Government (general explanatory notes, section 5.3.3):

"*If the state's grant to the Greenland Self-Government is reduced to DKK 0 as a result of revenue from mineral resource activities in Greenland, the grant will be forfeited also for subsequent years, and no grant will thus be payable to the Self-Government unless otherwise agreed by the parties, see section 10 of the Bill.*

The above mechanism, according to which the grant is forfeited also for subsequent years if the state's grant to the Greenland Self-Government in any one year is reduced to DKK 0 as a result of revenue from mineral resource activities in Greenland, applies irrespective of whether the revenue from mineral resource activities in Greenland decreases again or ceases altogether in subsequent years. Such a situation could, for example, arise in the years following a year with extraordinary non-recurring revenue, for example as a result of the sale of ownership interests in Greenland publicly owned mineral resource-related companies.

However, the provision in section 10 does not apply if the state's grant to the Self-Government is reduced to DKK 0 because Danish public authorities or companies etc. owned by Danish public authorities sell ownership interests in mineral resource companies comprised by section 7(2)(iii) or shares in mineral resource licences in Greenland. The part of the revenue from the sale that is included in the revenue statement for the year and thus accrues to the Greenland Self-Government is calculated as the amount that will reduce the state's grant to DKK 0. In such a situation, however, the revenue included and the reduction of the state's grant to DKK 0 will not result in the cessation of future grants, see the explanatory notes to section 10."

1.3.3. Definition of revenue

An important element in the self-government system is the economic relations between the Self-Government and the state which are regulated in the Act on Greenland Self-Government and are described in more detail in the explanatory notes to the Bill on Greenland Self-Government. One element in the economic system is the definition of revenue from mineral resource activities.

The definition of mineral resource revenue is set out in section 7(2) of the Act on Greenland Self-Government. The provision establishes that the following revenue is to be regarded as revenue from mineral resource activities in Greenland:

"*1) Revenue in accordance with specific licences for prospecting for, exploration for or exploitation of mineral resources, except for any amounts paid to cover expenditure under the auspices of the Bureau of Minerals and Petroleum.*
2) Revenue from any taxation in Denmark and Greenland of licence holders with respect to the part of the business that relates to mineral resources in Greenland.
3) Revenue from Greenland and Danish public authorities' ownership interests in companies, etc. which operate in the mineral resource area in Greenland.
4) Revenue from dividend withholding tax, etc. in Denmark and Greenland concerning shareholders in companies that are licence holders, or in companies that entirely own such companies directly or indirectly and can receive tax-free dividend from these."

Also according to the general explanatory notes to the Act on Greenland Self-Government (section 5.3.5) with regard to the definition of revenue:

"*The general basis for the new mineral resource system is that the Greenland Self-Government can take over the full powers in the mineral resource area in Greenland and receive the revenue from mineral resource activities in Greenland when this Act comes into force, see section 7(1) of the Bill. Furthermore, reference is made to the explanatory notes to section 10 concerning the situation where the state's grant to the Greenland Self-Government could be reduced to DKK 0.*

Section 7(2) lists the revenue that is included in the revenue definition. The definition is to a great extent based on the revenue definition of section 22(3) of the current Mineral Resources Act. According to the current mineral resource system, Denmark and Greenland share the decision-making authority via the Joint Council on Mineral Resources in Greenland and with both the Government and the Home Rule Government having a right of veto. Thus, it has been necessary to adjust the revenue definition in a number of respects as, in future, it must be possible to use the definition under a new mineral resource system where the responsibility for the mineral area may transfer to the Self-Government.

The revenue definition of section 7(2) is based on the current state of law in Greenland and Denmark, and its purpose is to specify the mineral resource revenue that accrues to the Greenland Self-Government under subsection (1). Furthermore, this revenue is to form the basis for a reduction in the state's grant to the Self-Government by an amount corresponding to half of the Self-Government's revenue from mineral resource activities in excess of DKK 75 million annually, see section 8 of the Bill.

Insofar as the provisions of the Bill still correspond to the provisions of the Mineral Resources Act, the legislative history of the Mineral Resources Act and related agreements will continue to be of relevance to the interpretation and application of section 7(2) of the Bill.

Future amendments to Greenland or Danish legislation or changes in the exercise of regulatory authority with regard to taxation, mineral resources or companies may have as a consequence that the revenue definition no longer meets the purpose. Should this be the case, the revenue definition must be reassessed by the Government of Greenland and the Government with a view to ensuring that the revenue definition is consistent with the intentions of the Act. In order to ensure that such a reassessment can be made on an informed basis, it is assumed that the parties will give each other insight into all relevant material on an ongoing basis. On the other hand, other amendments to the Greenland and Danish legislation that do not change the distribution of revenue from mineral resources will not in themselves require a reassessment of the revenue definition. For example, changes in the tax level will not require a reassessment of the revenue definition, see section 7(2)(ii) of the Bill."

The above explanatory notes to the Bill on Greenland Self-Government weigh in favour of ensuring that the exercise of regulatory authority in the mineral resource area after the transfer of responsibility should continue as a collective integrated approach to the exercise of regulatory authority so as to make sure that the revenue definition will meet the purpose also in the future.

Also according to the general explanatory notes to the Act on Greenland Self-Government (section 5.3.5.1) with regard to revenue under specific licences:

"*The proposed section 7(2)(i) is a re-enactment of the existing provision of section 22(3)(i) of the Mineral Resources Act. Thus, a re-enactment of the definition of revenue in accordance with specific licences for prospecting for, exploration for or exploitation of mineral resources is proposed and, likewise, a re-enactment of the exclusion from the revenue statement of amounts paid to cover expenditure under the auspices of the Bureau of Minerals and Petroleum is proposed.*

The types of revenue comprised by the proposed section 7(2)(i) are any revenue received by Greenland authorities under specific licences for prospecting for, exploration for or exploitation of mineral resources, see also the original explanatory notes to this part of the revenue definition from 1988 (L 103 of 17 November 1988). Revenue may be from licensees in the form of companies as well as in the form of natural persons, see also section 5.3.4 below.

One example of revenue under paragraph (i) is the production royalty that a licensee must pay under a licence, see section 8(1) of the Mineral Resources Act.

Another example is the payment to the authorities of a share of the profits realised from the activities under the licence (profits royalty), see section 8(1) of the Mineral Resources Act."

According to the same section with regard to revenue from mineral resources which is excluded from the income statement:

"*Certain revenue is not to be included in the statement of revenue relating to mineral resource activities, see section 7(2)(i), second limb. The revenue in question is revenue in the form of amounts received under specific licences when the amounts are paid to cover expenditure under the auspices of the Bureau of Minerals and Petroleum. The proposed exception is a re-enactment of the existing system in section 22(3)(i) of the Mineral Resources Act.*

The amounts that will not be included in the revenue statement pursuant to this Bill are reimbursement amounts, fees and charges, etc. to cover expenditure under the auspices of the Bureau of Minerals and Petroleum in connection with environmental studies and other background studies, regulatory tasks (approval procedures, supervision, reporting, etc.) and information services, etc. The expenditure on these matters must be related to the specific licences under which the amounts are collected. This is not required, however, with regard to expenditure on information services.

Outlays paid by Greenland and Danish authorities in the case of measures taken by the authorities in connection with licensees' non-performance of obligations pursuant to their licence (for example concerning measures to be taken upon termination of activities and environmental clean-up) cannot be paid out of mineral resource revenue, which is thus excluded from the revenue definition. Similarly, amounts of reimbursement received by Greenland and Danish authorities from licensees to cover such outlays are not included in the revenue definition.

Fees etc. cannot be charged to cover any expenditure incurred by the Bureau of Minerals and Petroleum for environmental clean-up and similar measures to be taken upon termination of activities that can be excluded from the revenue statement.

The fees and charges, etc. that may be charged to cover expenditure under the auspices of the Bureau of Minerals and Petroleum are described in detail in the explanatory notes to section 31b of the Mineral Resources Act (Bill no. L 61 of 4 November 1993). See section 5.3.4 above.

The current area royalty rates in relation to hydrocarbon licences have been set so that the area royalty corresponds to the related expenditure under the auspices of the Bureau of Minerals and Petroleum. The same will apply to corresponding area royalties in future licences.

The above stated fees and charges, etc., which are charged to cover expenditure under the auspices of the Bureau of Minerals and Petroleum, often differ for hydrocarbons and other mineral resources. As a main rule, the fees are set so as not to impair to any considerable extent the possibilities of attracting and retaining mining and oil companies' investments in exploration for and exploitation of mineral resources etc. in Greenland. Thus, the size of the fees referred to is set not primarily with a view to recovering the expenses in full. When the Mineral Resources Act was amended in 1993, such partial recovery of expenses was authorised in the Act itself by the insertion of section 31b."

According to the same section with regard to measures taken on termination of activities and environmental clean-up:

"*It follows from section 18(1) of the current Mineral Resources Act that measures to be taken upon termination of activities, including environmental clean-up, are the responsibility of licensees upon termination of their activities. The Bureau of Minerals and Petroleum may set terms to ensure fulfilment of the licensee's obligations under subsection (1) and may in this connection demand provision of security, see section 18(2) of the Mineral Resources Act. In the case of licences for prospecting or exploration for hard minerals, this may be in the form of usual security, including in the form of current payments during the licence period, whereby the amount of security is accumulated over the licence period.*

As regards environmental clean-up following offshore hydrocarbon activities, the Self-Government ensures that in connection with the specific licences adequate insurance policies and guarantees, etc. are demanded corresponding to the requirements concerning insurance policies and guarantees, etc. in the model licence dated July 2006 for the Disko West licensing round as well as the specific licences awarded in that licensing round. The Greenland Self-Government also ensures that there is an administrative follow-up on these terms.

Under section 18(3) of the Mineral Resources Act, the Bureau of Minerals and Petroleum

may carry out measures to be taken upon termination of activities and clean-up measures, etc., including environmental clean-up, for a licensee's account and risk, if the licensee does not observe an enforcement notice concerning the implementation of such measures. This applies to both hydrocarbon licences and other licences.

Future acts and licence terms may contain similar provisions on the Bureau of Minerals and Petroleum's implementation of safety, health and environmental measures and measures to be taken upon termination of activities, etc. for the licensees' account and risk, when licensees do not themselves take such measures, or on licensees' reimbursement of expenses under the auspices of the Bureau of Minerals and Petroleum when such measures are taken in relation to specific licences. Revenue as a result of reimbursement of expenses under the auspices of the Bureau of Minerals and Petroleum in connection with such measures etc. is excluded from the revenue definition in section 7(2)(i) of the Bill.

Amounts of reimbursement to cover expenses under the auspices of the Bureau of Minerals and Petroleum in connection with emergency measures concerning safety, health and the environment that are directly related to the licensees' mineral resource activities in Greenland are also excluded from the revenue definition. This applies insofar as the activities are activities which are performed pursuant to licences granted for prospecting for, exploration for and exploitation of mineral resources and which the licensee is not obliged to have the Bureau of Minerals and Petroleum perform.

If a licensee's emergency preparedness is not adequate or is not used during an oil spill or in other similar situations, and the Greenland or Danish authorities must initiate response activities, amounts of reimbursement that such authorities receive subsequently to cover the expenses incurred in this connection will not be included in the revenue definition."

According to the general explanatory notes to the Act on Greenland Self-Government (section 5.3.5.2) with regard to the second limb of the revenue definition concerning tax revenue:

"*As has been the case until now, it must, as far as companies are concerned, be ensured when exploitation licences are granted that revenue relating to exploitation activities can be identified and kept apart for tax purposes from revenue and expenses relating to other activities. The Self-Government must also ensure this under a new mineral resource system where the responsibility for the mineral resource area has transferred to the Self-Government.*

This means that in connection with the granting or alteration of exploitation licences, it must be ensured that the licensee is not granted exemption from taxation as mentioned in section 3(3) of the Greenland Parliament Act on Income Tax, unless the Bureau of Minerals and Petroleum demonstrates that the licence involves fees which are at least as onerous and

which are included in full in the revenue distribution; that the licensee only carries out activities under the licence and other activities in accordance with the Mineral Resources Act; that the licensee does not invest in other companies or legal persons; that the licensee cannot be taxed jointly with other companies in Greenland or Denmark, unless joint taxation is compulsory; that licensees in domestic groups of companies are subject to the same capitalisation requirements as licensees in foreign groups of companies; that generally the licensee trades at arm's length prices and on arm's length terms; that the licensee's organisational structure, including the licensee's relation to a parent company, cannot be changed without approval from the Bureau of Minerals and Petroleum; and that the licensee's registered office cannot be changed without approval from the Bureau of Minerals and Petroleum.

The Greenland Self-Government may set requirements to the effect that a company that is granted a licence for exploitation of mineral resources in Greenland must have its registered office in Greenland, see section 7(3) of the Mineral Resources Act.

Exploitation licences may be granted also to natural persons as well under certain circumstances and to a specified extent. Such licences are granted in the form of licences for small-scale exploitation of hard minerals, see section 5.3.4 below.

For the calculation of the revenue that accrues to the Self-Government, see section 7(2)(ii) of the Act, and is thus to be included in the revenue statement, the Self-Government ensures that natural persons' revenue and expenses concerning mineral resource activities can be identified and kept apart from the person's other revenue and expenses.

To ensure an administratively simple and unambiguous system – and to avoid that the revenue statement is affected by the choice of organisational structure – the amount of taxes to be included in the revenue statement is calculated as if the revenue from mineral resource activities (less related expenses) were earned in a public limited company and the profit after tax were distributed in the same accounting period.

Furthermore, the Self-Government ensures that natural persons (holding a licence) are not granted exemption from taxation as mentioned in section 3(3) of the Greenland Parliament Act on Income Tax unless the Bureau of Minerals and Petroleum demonstrates that the licence involves fees which are at least as onerous and which are included in full in the revenue distribution.

For natural persons holding a licence whose annual revenue from sale of hard minerals in connection with small-scale activities does not exceed DKK 400,000, a tax allowance of 60 per cent of the sales revenue may be given instead of the requirement of documented expenses. The allowance has been fixed on the basis of the Greenland tax authorities' general

experience concerning the ratio between revenue and expenses for small business enterprises' activities in primary industries such as fishing and hunting.

An amount corresponding to the remaining 40 per cent is then included in the calculation of the amount of taxes which is mentioned in section 7(2)(ii) of the Act and which is thus to be included in the revenue statement. Also in this instance, the amount of taxes is calculated as if the revenue from mineral resource activities were earned in a public limited company and the profit after tax were distributed in the same accounting period.

The amounts of taxes mentioned are calculated solely for the revenue statement and are of no relevance for the actual tax situation of the individual licensee. Thus, according to the provision, the licensees concerned are not obliged to pay their revenue from mineral resource activities to the Greenland Self-Government.

These licensees also have a duty of disclosure and must document all revenue from mineral resource activities according to the standard terms, but the requirement for documentation of expenses may be replaced by the above allowance for purposes of the revenue statement. Documentation of expenses in connection with small-scale activities is required only when the revenue from sales exceeds DKK 400,000 annually.

Section 3 of Home Rule Executive Order no. 27 of 1 December 2006 on requirements to financial statements for tax purposes, etc. aims to relax the financial reporting requirements for fishermen, hunters and similar small business enterprises. Typically, these persons do not have the financial means to make use of professional assistance for preparing their financial statements, and at the same time they have difficulties in meeting the general financial reporting requirements. The same considerations as those underlying this provision have been deemed to be relevant in the determination of an upper limit of turnover for the possibility of applying a standard allowance instead of the actual documented expenses in connection with the small-scale activities of natural persons in the mineral resource area."

According to the general explanatory notes to the Act on Greenland Self-Government (section 5.3.5.3) with regard to revenue from public participation in activities in the mineral resource area:

"*Section 7(2)(iii) of the Bill establishes that the revenue definition includes revenue from Greenland and Danish public authorities' ownership interests in companies etc. which operate in the mineral resource area in Greenland. The revenue system includes revenue relating to mineral resource activities in Greenland that directly or indirectly accrues to Danish or Greenland authorities as owners and these authorities' revenue on the transfer of ownership interests or the like in companies etc. which carry on mineral resource activities in Greenland. Any organisational framework for mineral resource activities other than the*

corporate form, including a framework embedded directly in the public administration etc., is also covered.

Mineral resource activities means activities under licences for prospecting for, exploration for or exploitation of mineral resources in Greenland, see sections 6 and 7 of the Mineral Resources Act."

Further, according to the same section:

"*In order to ensure that the taxable profit for the year, payable as corporation tax, gives a fair view of the Self-Government's revenue from mineral resource activities in Greenland, the Self-Government must ensure:*

1) *That licences for prospecting for, exploration for and exploitation of mineral resources are granted on transparent and equal terms;*
2) *That the enterprise only carries on mineral resource activities and that such mineral resource activities are carried on solely according to licences granted in Greenland, see also section 7(2)(ii) and (iv) as well as section 7(3) and section 8(3) of the Mineral Resources Act;*
3) *That enterprises as mentioned in section 7(2)(iii) are operated on a commercial basis, which means that the enterprise will maximise revenue and minimise, for example, production, trade and payroll costs; and*
4) *That the annual report for the enterprise is prepared on the basis of the International Financial Reporting Standards (IFRS).*

In connection with the grant of licences for prospecting for, exploration for and exploitation of mineral resources, the Greenland Self-Government must ensure that – in addition to being granted on transparent and equal terms, see above – the licences are also granted on objective terms. This means, for example, that the Self-Government must not take into consideration the fact that by granting licences to specific companies which are wholly or partly owned by Danish public authorities, the Self-Government will receive a share of the revenue accruing to Danish authorities by virtue of their ownership of the enterprise concerned, see the proposed provisions of sections 7-8. Thus, the award of licences must be arranged so as to ensure that not only specific companies, such as DONG Grønland A/S, will be eligible."

1.3.4. Cooperation between the Government of Greenland (the Home Rule Government of Greenland) and the Government within the mineral resource area

According to the general explanatory notes to the Act on Greenland Self-Government (section 5.3.6) with regard to the cooperation between the Greenland and Danish authorities in the mineral resource area:

"*Until the transfer of responsibility for the mineral resource area to the Self-Government under the provisions of this Bill, the mineral resource area is regulated in the Home Rule Act, the Mineral Resources Act as well as in the agreements that have been or will be concluded, based on this legislation, between the Home Rule Government and the Government including the "Agreement between the Greenland Home Rule Government and the Government concerning the administration of mineral resources in Greenland from 1 July 1998.*"

At present, the mineral resource area is characterised by extensive cooperation between Greenland and Danish authorities. It is envisaged that immediately after the transfer of responsibility for the mineral resource area, the Self-Government will have a need to continue the cooperation with Danish institutions at the administrative level and at the research level.

Under section 9 of the Bill, an agreement is therefore concluded between the Government of Greenland and the Government that will take effect immediately after the transfer of responsibility to Greenland. It is assumed that the agreement will be in force for a period of five years. Prior to the expiry of the first agreement period of five years, the Government of Greenland may decide to renew the agreement in the form of an agreement with an agreement period of multiple years that can be renewed successively in the form of agreements with agreement periods of multiple years. It is assumed that such agreements will contain the following elements:

The Government of Greenland receives services, against payment, from Danish public research institutions in the form of consultancy services and other performance of tasks for the purpose of the Self-Government's management of the mineral resource area. The intention is that the Government of Greenland will have access to such consultancy services etc. to the same extent as in the previous cooperation with GEUS and NERI (from 1 January 2007 a part of Aarhus University). It is assumed that the payment for such services will correspond to the expenses incurred by GEUS and NERI so far as a result of the performance of these tasks, i.e. an annual payment which in 2004 amounted to DKK 3.0 million and DKK 2.2 million to GEUS and NERI, respectively. In addition, the Self-Government may enter into an agreement with GEUS and NERI for supplementary consultancy services etc. from GEUS and NERI or from others.

After the expiry of the first agreement period of five years, subsequent agreements with agreement periods of multiple years concerning the above or similar services may, as mentioned above, be concluded at the request of the Government of Greenland. In that case, the intention is that negotiations should be initiated 12 months prior to the expiry of the current agreement. The reason for the relatively long term and the initiation of negotiations well before the term commences is the need to ensure that the Self-Government's mineral resource authorities are given the option of whether to continue the cooperation with the

Danish research institutions or whether to purchase consultancy services from others, and that the research institutions will be able to plan their activity level over a number of years.

On the conclusion of the above agreements, the Government makes available to the Government of Greenland free of charge research corresponding to the research so far provided by public Danish research institutions of special relevance to resource exploration in Greenland as long as the agreements are continuously renewed. The tasks involved are the basic institution and research tasks, including the carrying on and financing of the operation of databases specifically relating to mineral resources such as seismic databases, mineral databases and databases of sensitive natural areas, which have been carried out so far by GEUS and NERI of relevance to mineral resource exploration in Greenland. In the first term of the agreement the tasks will be of the same economic scope as in 2005 (subject to adjustment of prices, wages and salaries). GEUS and NERI have stated that the amount involved is approximately DKK 29 million annually.

Furthermore, it is assumed that under such an agreement, the Self-Government on its part carries out projects for marketing of the mineral resource potential etc. of the same economic scope as before, and that in the first term of the agreement the Self-Government carries out these projects as a project collaboration with GEUS and NERI to an extent corresponding to the extent in the period 2000-2004, i.e. for a term which as a whole corresponds to just under half of the project scope. The state co-finances these project activities to the same extent as in the above period.

At the same time as the introduction of this Bill, a Bill on Various Matters in connection with the Greenland Self-Government will be introduced, authorising the Government to meet its obligations under section 9.

It is up to the Self-Government to decide whether, after the first term of five years, it wishes to enter into new agreements with agreement periods of multiple years with the Government concerning access to Danish public research institutions, and this Bill does not limit the Government of Greenland's possibilities of subsequently concluding similar agreements with others.

The tasks and expenses of the Greenland and Danish institutions and authorities in connection with the current mineral resource system are described in more detail in appendix 3 to a report presented by the Working Group concerning non-living resources under the Self-Government Commission."

1.3.5. Negotiations in case the state's grant is reduced to DKK 0

According to section 5.3.7 of the general explanatory notes to the Act on Greenland Self-Government with regard to negotiations between the Self-Government and the Government in

case the state's grant to the Self-Government is reduced to DKK 0:

"*If the state's grant to the Self-Government is reduced to DKK 0 in any year, see section 8, negotiations will be initiated between the Government of Greenland and the Government regarding the future economic relations between the Self-Government and the state, see the provision of section 10.*

The negotiations will mainly be concerned with the question of resumption of the state's grant to the Greenland Self-Government, the question of distribution of revenue from mineral resource activities in Greenland as well as the question of a continuation of the agreement concerning the services mentioned in section 9. Furthermore, in the negotiations the parties may address the question of how to cover the expenses of the state for areas where there can be no transfer of responsibility within the framework of the Danish Constitution and the Danish Realm as well as other areas which the Self-Government and the Government wish to manage jointly.

Neither party is obliged to obtain a specific outcome of the negotiations.

If, in the case where the state's grant to the Self-Government has been reduced to DKK 0, the parties do not conclude an agreement on resumption of the state's grant, the state will pay no grants to the Self-Government in the subsequent years. Only if an agreement is concluded between the Government and the Government of Greenland to this effect will the state's payment of grants to the Greenland Self-Government be resumed in the situation mentioned. In that connection it is assumed that an agreement for resumption of the state's grant to the Self-Government must be implemented through legislation, which will thus constitute the legal basis for the resumption.

As regards the question of distribution of revenue from mineral resource activities in Greenland, such revenue accrues to the Greenland Self-Government, see section 7, unless an agreement is concluded between the parties concerning the distribution of the revenue. However, this does not apply with regard to revenue from the ownership interests of Danish public authorities in companies etc. which operate in the mineral resource area in Greenland and revenue from taxation in Denmark, see section 7(2)(ii)-(iv). In the situation mentioned, such revenue accrues to the Danish authorities concerned.

Finally, it should be mentioned that any agreements between the Government of Greenland and the Government concerning consultancy services and the performance of other tasks for the purpose of the Self-Government's management of the mineral resource area, see section 9, will not continue in the situation mentioned where the state's grant to the Greenland Self-Government has been reduced to DKK 0, unless the parties conclude an agreement to this effect."

1.3.6. Greenland's rights to mineral resources in the subsoil
According to section 6 of the general explanatory notes to the Act on Greenland Self-Government with regard to Greenland's rights to mineral resources in the subsoil:

"*According to the Bill, the responsibility for the mineral resource area can transfer to the Greenland Self-Government, see no. 26 in list II of the schedule. On the transfer of responsibility for the mineral resource area to the Greenland Self-Government, the Self-Government will exercise legislative and executive powers in the mineral resource area.*

On the transfer of responsibility for the mineral resource area to Greenland, the Greenland Self-Government will be responsible for establishing the general framework for activities in the mineral resource area and for making arrangements, for example, by granting licences to prospect for, explore for and exploit subsoil resources. On the transfer of responsibility for the mineral resource area, Greenland will then own and have the unrestricted right to use and exploit the subsoil resources in Greenland. However, the state will continue to have sovereignty over Greenland.

Reference is made to item 5 above as regards revenue from the exploitation of mineral resources in Greenland.

As can be seen from section 21(4) of the Bill, however, independence for Greenland will imply the transfer of sovereignty over Greenland to Greenland. As mentioned in section 10.2 below, sovereignty covers the entire Greenland territory (territorial land, sea and air)."

2. Main features of the Bill

2.1. Purpose
The Bill aims to contribute to ensuring appropriate and effective prospecting for, exploration for and exploitation of minerals as well as performance of activities in relation thereto. The Bill further aims to ensure appropriate regulation of matters relevant for mineral activities.

The intention is for the Bill to be a framework act setting the most important principles for the administration of mineral activities, and for the Government of Greenland to be given the authority, within this framework, to set more detailed provisions and terms. For one thing, the Government of Greenland may set provisions in executive orders, model licences and standard licence terms and terms of licences granted to a licensee. The Mineral Resources Act functions in the same way as a framework act for the regulation of the mineral resource area.

The purpose of the Bill means, among other things, that the Bill is envisaged to contribute to securing a fair share to society of the economic gains obtained from the exploitation of minerals and performance of activities in relation thereto, and that those activities are to be

performed in accordance with the long-term public needs.

Finally, the Bill aims to ensure that activities comprised by the Bill are performed in a sound manner as regards health, safety, environmental protection, resource utilisation and social sustainability as well as appropriately and in accordance with acknowledged good international practices under similar conditions.

Among other things, the Bill seeks to ensure protection of the environment, climate and nature in connection with the exploration, prospection and exploitation of minerals and in connection with activities in relation thereto.

Sound resource utilisation means, among other things, that any waste of resources must be avoided where possible in connection with the activities and that regard must be had to short-term and long-term public interests. This includes public interests in the performance of mineral activities and exploitation of minerals, generation of activity and accumulation of experience and competences for local workers and suppliers of goods and services and generation of revenue for the Greenland Self-Government and local workers and suppliers of goods and services.

The requirement of social sustainability means, among other things, that the social sustainability of a mineral activity in a broad sense must be taken into account when deciding whether or not an approval can and should be granted for the activity. For example, assessments must be made of the occupational, social and structural effects that an activity may have on society and social and economic conditions as well as assessments of any measures and matters which may and should be implemented to promote positive impacts and avoid or offset substantial adverse impacts.

The provisions of the Bill on social sustainability are intended to contribute to ensuring that the planning and administration of activities comprised by the Bill will also be based on assessments of the impacts which the activities may have on society nationally and locally.

The Bill is largely based on the provisions of the Mineral Resources Act concerning minerals and activities in relation thereto and recommendations in the area, including Greenland's Mineral Strategy 2020-2024 prepared and adopted by the Government of Greenland.

2.2. The licence system, licences and provisions and terms, etc.
It follows from, for example, the Act on Greenland Self-Government and the explanatory notes thereto that the Self-Government owns and has the unrestricted right to use and exploit the subsoil resources of Greenland.

On the transfer of responsibility for the mineral resource area to the Greenland Self-

Government, it was up to the Greenland Self-Government to lay down the general framework for activities in the mineral resource area and to make arrangements in the mineral resource area, for example, by granting prospecting, exploration and exploitation licences for subsoil resources.

Therefore, the general principle of the proposed regulation of activities comprised by the Bill is that the performance of mineral activities is subject to a licence thereto or approval thereof granted by the Government of Greenland in accordance with the Bill. The principle is a re-enactment of the principles of the Mineral Resources Act.

In relation to the Mineral Resources Act, there will be a clearer dividing line under the Bill between the different licences and activities and the licensees' rights and obligations in this regard. This contributes in general to a clearer state of the law in the area as the provisions of the Bill will be easier to understand and apply in practice. This is the case particularly with individuals and companies who are not at all or only to a limited extent aware of the regulation of the mineral area and the legal system in Greenland.

The provisions concerning licences each have a part of their own: Part 5 on prospecting licences, Part 6 on exploration licences, Part 7 on exploitation licences and Part 9 on scientific survey licences.

To some extent, Parts 5-7 and 9 include provisions on the same matters, but the content of those provisions differs with the type of licence involved. The Parts include provisions on the following matters:

1) The grant of a licence and the contents of the licence, including with regard to the nature of the licence as a non-exclusive or exclusive licence.
2) Requirements to the licensee under a licence.
3) The minerals and the licence area comprised by the licence.
4) The duration of the licence period and an option to extend.
5) The Government of Greenland's right to set provisions or terms on the licensee's payments to the Government of Greenland. These could include application filing and processing fees and fees for the grant of a licence, a consideration for maintaining the licence and activities under the licence or income in this connection and charges to cover the Government of Greenland's costs in connection with administrative and regulatory processing under the Bill concerning the licence and activities under the licence.

Parts 5-7 and 9 also include provisions about the reports to be submitted by the licensee on the surveys and activities under a licence and the results thereof. Under the provisions in this regard, the licensee must submit reports to the Government of Greenland about the matters mentioned and a copy of the survey results and data and samples therefrom and the licensee's

interpretations, conclusions and recommendations in this regard. The purpose of those provisions is, among other things, to ensure that the Government of Greenland will have access to all relevant information, reports and data, etc. concerning the subsoil of Greenland and that the Government of Greenland will have a right to use them and publish them after the end of a confidentiality period. See the explanatory notes to sections 32, 39, 55 and 63 of the Bill.

Part 10 includes some general provisions which, as a starting point, apply to all licences comprised by the Bill, except for licences for scientific surveys, unless otherwise provided in the provisions.

The provisions of Part 10 concern various matters, including the following:

1) Additional requirements to the licensee under a licence.
2) Reporting on and payment of direct and indirect taxes.
3) Transfer of and legal proceedings against a licence.
4) The licensee's merger with another company or demerger into two or more companies.

To a wide extent, the provisions correspond to the corresponding provisions of the Mineral Resources Act in this regard and the Government of Greenland's practice for setting provisions and terms thereon, with some clarifications and elaborations, etc.

2.3. Activity plans and closure of activities under a licence

Part 12 of the Bill includes provisions on the licensee's activity plans, the Government of Greenland's approvals of activity plans and the licensee's closure of activities and provision of security, etc.

The provisions largely correspond to the provisions of the Mineral Resources Act on the same matters, with a few clarifications and elaborations. However, new provisions have been added, including additional provisions on clean-up and removal of assets that have been used in connection with the performance of activities under a licence, and on retention and sale of removed assets.

In relation to the provisions of the Mineral Resources Act on the same matters, the provisions of the Bill on a mining plan (formerly, exploitation plan) and a closure plan have been gathered in the same part to gain an overview of the connection between these plans, which must be approved by the Government of Greenland before a licensee can initiate its activities under an exploitation licence. This generally contributes to creating a clearer state of the law in the area. In addition, the provisions of the Bill are thus easier to understand and apply in practice. This is the case particularly with individuals and companies who are not at all or only to a limited extent aware of the regulation of the mineral area and the legal system in Greenland.

2.4. Regulatory matters
Part 4 of the Bill contains, among other provisions, provisions on the Mineral Licence and Safety Authority and the Environmental Agency for Mineral Resources Activities (EAMRA), which are the entities responsible for day-to-day administration in the mineral resource area.

The two agencies have decision-making power on minor issues, whereas decisions of a more far-reaching nature are taken by the whole Government of Greenland. Decisions made by the two agencies may be appealed to the Government of Greenland.

The administration is split into two independent entities under two different Ministries so that it is not the same authority administering the licence regime that decides on environmental matters. This is intended, among other things, to ensure a focus on the protection of the environment and nature, and that social development thereby takes place on a sustainable basis, respecting human living conditions and the conservation of animal and plant life.

The split does not change the principle of a single authority (one door principle). The Mineral Licence and Safety Authority will be the coordinating administrative authority and will obtain the necessary opinions and decisions from EAMRA, so that licensees under the Bill will be communicating with only one authority.

2.5. Geological knowledge sharing, data and marketing of the mineral area in Greenland
Since the Mineral Resources Act came into force, the Government of Greenland has amassed greater knowledge and experience in the mineral area. For one thing, greater knowledge has been accumulated about market conditions and competition in Greenland and internationally and about Greenland's potential in the mineral area.

The Government of Greenland still wants to increase awareness of Greenland's mineral potential and ensure appropriate knowledge sharing of relevant information, reports and data, etc. concerning the subsoil of Greenland. These matters are mentioned as important in Greenland's Mineral Strategy 2020-2024, which has been prepared and adopted by the Government of Greenland.

Under the Mineral Resources Act, the Government of Greenland may use and publish relevant information, reports and data, etc. concerning the subsoil of Greenland, including geological data, to the extent that the information and data, etc. in question are not subject to confidentiality.

Under the Bill, the Government of Greenland will still be able to use and publish relevant information, reports and data, etc. concerning the subsoil of Greenland under sections 32, 39, 55 and 63.

The Bill thus ensures that the Government of Greenland may have access to relevant information, reports and data, etc. concerning the subsoil of Greenland and that the Government of Greenland will have a right to use them and publish them after the end of the confidentiality period. This will contribute to ensuring that the Government of Greenland will continuously and appropriately obtain new knowledge in the mineral area and that the Government of Greenland may market and raise awareness of Greenland's mineral potential and geology towards Greenland and international parties.

2.6. Cooperation between the Government of Greenland and the Government in the mineral area

The Mineral Resources Act contained specific authority for the Geological Survey of Denmark and Greenland (GEUS) and the Danish Centre for Environment and Energy (DCE) to carry out research of particular relevance to mineral resources exploration in Greenland, to the extent and so long as the research is carried out to satisfy the obligation of the Government to make such research available to the Government of Greenland under section 9(4) of the Act on Greenland Self-Government.

As the cooperation between the Government of Greenland and GEUS and DCE is governed by the Greenland Home Rule Government, and the research is carried out by agreement with the Government of Greenland, the cooperation is not separately governed in the Bill.

2.7. Matters relating to the hydrocarbon area (oil and natural gas area) and use of the subsoil for storage purposes

The hydrocarbon area and use of the subsoil for storage purposes are not comprised by this Bill and will continue to be comprised by the Mineral Resources Act.

2.8. Matters relating to the environment, nature and climate

Environmental matters, including also matters relating to nature and climate, are important matters concerning activities comprised by this Bill, including in particular exploitation and closure activities.

The Bill governs environmental matters in the mineral area, including environmental, climate and nature protection, environmental responsibility and liability and compensation for environmental damage, etc.

The Bill is to a wide extent a re-enactment of the provisions of the Mineral Resources Act relating to environmental matters, and the provisions of the Bill relating to environmental matters will therefore continue to apply in relation to all activities and matters comprised by this Bill. Thus, the Bill contains, among other things, Part 13 on environmental, climate and nature protection, Part 14 on environmental responsibility and liability and Part 15 on

environmental impact assessment (EIA), while Part 22 on liability in damages and insurance contains provisions on compensation for environmental damage.

2.9. Matters relating to small-scale mineral activities and exploitation for construction projects and infrastructure projects in Greenland etc.
The mineral resource area and the Mineral Resources Act cover a number of activities, including the following: Small-scale mineral exploration and exploitation by local museums and individuals under small-scale licences thereto. And geo-tourism activities concerning showing of minerals and geological conditions in Greenland for tourists. Exploitation of gravel, stone and similar minerals by municipalities and enterprises for use as building or construction materials as part of a construction or infrastructure project in Greenland. Collection and extraction of minerals without a licence in this regard performed by individuals having permanent residence in Greenland and being fully liable to pay tax in Greenland (resident individuals).

This Bill does not cover such small-scale activities and activities concerning exploitation of minerals for use in construction projects and infrastructure projects in Greenland etc.

The Government of Greenland is planning to prepare and introduce a Greenland Parliament Bill on such small-scale activities and other activities, etc. (Small-Scale Mining Act). The Bill is envisaged to be introduced as soon as possible following the introduction of this Bill.

2.10. Social sustainability and assessment thereof
This Bill includes rules on social sustainability, including and in particular in sections 1 and 103.

Part 16 of this Bill includes rules on the performance of a social impact assessment (SIA). The requirements concerning social sustainability generally imply that a licensee must perform a social impact assessment (SIA) when performing planned activities and prepare a report thereon (an SIA report) if the activities must be assumed to have a significant social impact. The licensee must submit the SIA report to the Government of Greenland and obtain the Government of Greenland’s approval of the report.

The requirement for social sustainability is generally intended to ensure that the activities are organised and performed in such a manner as to ensure that developments in society can take place on a sustainable basis. The requirement is also intended to ensure that the necessary measures are taken to offset and mitigate negative social impacts and create positive social effects and, in this connection, that positive development opportunities are identified and realised, where possible.

Reference is made to the explanatory notes to the provisions of Part 16.

2.11. Health and safety for offshore facilities
The full powers for the field of working environment in the territorial land of Greenland have not transferred to the Greenland Self-Government. A transfer of the powers for the field of working environment in the territorial land is permitted pursuant to section 3(2) of the Act on Greenland Self-Government following negotiations with the authorities of the Danish Realm.

The part of the working environment powers which concerns work relating to mineral activities in the sea area on offshore facilities has been transferred to the Greenland Self-Government. Part 19 of the Mineral Resources Act, which consists of only sections 113-114, sets out provisions on health and safety for offshore facilities.

In general, the provisions of the Bill correspond to section 79 of the Mineral Resources Act.

2.12. Important public considerations and interests
Under the Bill, a licence or an approval cannot be granted to an applicant or licensee if incompatible with important public considerations and interests, including important foreign policy, defence policy or national security considerations or interests.

The Government of Greenland will decide whether a licence or an approval under the Bill cannot be granted to an applicant or a licensee as a result of important public considerations or interests, including important foreign policy, defence policy or national security considerations or interests.

3. Economic and administrative consequences for the public sector
The Bill is in accordance with the Government of Greenland's policy that the mineral sector must be a growth industry that contributes to the overall economic and commercial activities and growth of Greenland. It is expected that some of these activities and this growth will be attained through the creation of more jobs and services in the mineral sector in Greenland. This will generally contribute to increasing commercial activity, revenue from commercial activity, public revenues and the standard of living in Greenland. In addition, it will contribute to society in general, among other things through increased income tax revenue from individuals and companies.

Thus, the Bill aims to support a number of positive economic and administrative effects for the public sector and society. However, any attempt to place a monetary value on the consequences of the Bill for the Greenland economy and public finances is subject to great uncertainty. One reason for this uncertainty is that the mineral sector is greatly affected by global economic trends and thereby demand for and market prices of minerals. Another reason is that many and very different and varying factors will affect the potential positive and negative impacts on the public sector and society.

Under the Bill, the costs incurred by the Government of Greenland for administrative and other regulatory processing, including for upgrading professional qualifications and increasing staffing levels in the mineral area, will generally be covered by the licensees reimbursing such costs. It is thus expected that no additional funds will be required in connection with administrative and other regulatory processing, including upgrade of professional qualifications and increase of staffing levels in the mineral area.

The Bill is thus not anticipated to have significant economic or administrative consequences for the public sector.

4. Economic and administrative consequences for the business sector

The potential positive effects on Greenland enterprises and foreign enterprises will depend on a number of factors, including the extent to which the enterprises can supply, and are retained by the licensees to supply, the goods and services which are necessary in connection with the performance of activities under licences under the Bill.

Furthermore, the potential positive effects on Greenland enterprises and foreign enterprises will also depend on the extent to which the enterprises are granted licences under the Bill and whether licensees perform activities under licences and generate income in that connection.

The Bill aims to provide a number of positive economic and administrative effects for Greenland enterprises and foreign enterprises.

However, it is not possible to estimate or place a monetary value on the positive effects on the enterprises. Some of the reasons are the above-mentioned matters and the very different potential activity levels for mineral activities under the Bill and possible levels of demand for and prices of different types of minerals. The mineral sector is greatly affected by global economic trends and thereby demand for and market prices of minerals. Another reason is that many and very different and varying factors will affect the potential positive and negative impacts on the Greenland enterprises and foreign enterprises.

With regard to the amount of fees and charges, etc. which are payable by licensees to the Government of Greenland under the Bill, reference is made to section 31(1) and (3), section 38(1) and (4), and section 51(1) and (5).

In general, the Bill will not result in an increase of the economic or administrative burdens on the business sector.

5. Consequences for the environment, nature and public health

The Bill is not expected to involve any significant changes to the environment, nature or

public health.

6. Consequences for citizens
The Bill is generally aimed at companies' and research institutions' mineral activities in Greenland. However, the Bill will extend the area of public consultations in relation to the Mineral Resources Act as public consultation will be required under the Bill in connection with the grant of exploration licences and exploitation licences and social impact assessments, and it will be possible to require social impact assessments in connection with all activities which are assumed to have a potential significant social impact. The Bill thus gives citizens greater influence on the development of the mineral industry in Greenland.

7. Other significant consequences
The Bill is not expected to have any other significant consequences.

8. Consultation of authorities and organisations, etc.
In the period from [xxx] to [xxx], the Bill was made available on the consultation portal of the Self-Government: www.naalakkersuisut.gl.

In the same period, the Bill was put out to consultation with the following authorities, organisations, etc.:
[xxx]

The Ministry of Mineral Resources received responses from the following authorities, organisations, etc.:
[xxx]

Below, the responses received in connection with the consultation process are discussed. It should be noted that the responses are italicised and that their essence is set out based on an evaluation of materiality.

[xxx]

Explanatory notes to the individual provisions of the Bill

To section 1

This section sets outs the purposes of the Bill and therefore does not in itself constitute a legal basis to set terms or make decisions. The provision only states which legal considerations the Government of Greenland may take into account in relation to administrative processing under the Bill.

To subsection (1)

The proposed subsection states the main purposes of the Bill. Under section 1(1) of the Bill, the Bill is intended, among other things, to ensure appropriate regulation of mineral activities in Greenland. Thus, the intention is for the Bill to be a framework act setting the most important principles for regulation and administrative processing of mineral activities and other activities in relation to mineral activities, and for the Government of Greenland to be given the authority, within this framework, to make decisions and set the necessary provisions.

Among other things, the Government of Greenland may set provisions on mineral licences, mineral activities and matters in relation thereto in executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals.

Reference is made to section 16 of the Bill and the relevant explanatory notes.

The provisions of the Bill set the overall framework for the considerations and aspects which will be involved and comprised by the standard terms and model licences which will be prepared in the mineral area, and the decisions which will be made by the Government of Greenland in the mineral area. In general, the Bill enables dynamic interpretation in the mineral area to allow new know-how and technology in the mineral area to be applied immediately without any amendment of the Bill being required.

In general, with regard to appropriate prospecting, exploration and exploitation, endeavours it is implied that the activities are organised and performed in an appropriate manner, including in accordance with the considerations mentioned in subsection (2). Appropriate exploitation implies, among other things, that the Bill is envisaged to contribute to securing a fair share to society of the economic gains obtained from the performance of mineral activities, including in particular exploitation of minerals, and that those activities are to be performed in accordance with the short-term and long-term public needs.

In general, with regard to effective prospecting, exploration and exploitation, endeavours it is implied that the activities are performed in an effective manner, including in accordance with the considerations mentioned in subsection (2). Effective prospecting, exploration and exploitation implies, among other things, that the Bill is envisaged to contribute to ensuring that the licensee begins to perform the activities under the licence within a reasonable time after it is possible in the post licence grant period and that the licensee performs the activities in the licence period in accordance with activity plans, mining plans and closure plans without unnecessary or long pauses or interruptions.

The provision thus specifies, among other matters, that the Bill implies appropriate and effective prospecting, exploration and exploitation of minerals as well as performance of activities in relation thereto. For one thing, this is intended to contribute to avoiding unwarranted and unnecessary "area reservation" of a licence area under an exploration or exploitation licence.

The performance of activities in connection with prospecting, exploration and exploitation of minerals generally means all other activities which are associated with the activities in question, including secondary activities or side activities to mineral prospecting, exploration and exploitation activities. In some cases, the performance of such other activities will be subject to an approval thereof granted by the Government of Greenland under the Bill.

To subsection (2)

The proposed subsection implies, among other things, that activities comprised by the Bill are performed appropriately and in a sound manner as regards health, safety, environmental protection, resource utilisation and social sustainability.

The Bill covers, for example, physical safety when establishing and operating buildings, facilities, installations and infrastructure, etc.

The health concept of the Bill should be interpreted broadly, and covers both health in relation to the working environment in connection with the individual activity, and the health of Greenland's population in general (public health).

Environmental protection includes general environmental considerations relating to human beings, animal and plant life as well as nature when performing the activities comprised by the Bill. Part 13 of the Bill contains provisions on environmental protection, climate protection and nature protection, and Parts 14 and 22 of the Bill contain provisions on environmental responsibility and liability and compensation for environmental damage, respectively. Part 15 of the Bill also provides that certain activities require a prior environmental impact assessment (EIA) and the approval of report thereon (EIA report).

Sound resource utilisation means, among other things, that any waste of resources must be avoided where possible in connection with the mineral activities and that regard must be had to short-term and long-term public interests. Those interests include public interests in the performance of mineral activities and exploitation of minerals, generation of activity, accumulation of experience and competences for local workers and suppliers of goods and services and generation of revenue for the Greenland Self-Government, local workers and local suppliers of goods and services.

The provisions of the Bill on social sustainability are intended to contribute to ensuring that the planning and administration of activities comprised by the Bill will also be based on assessments of the impacts which the activities may have on society nationally and locally. Thus, the proposed provisions imply requirements for holistic planning and management of all activities comprised by the Bill. When assessing societal sustainability, among other things, the population's social, cultural, religious and spiritual values and customs must be taken into account.

Part 16 of the Bill includes rules on social sustainability and on the performance of social impact assessments (SIAs).

To section 2

This subsection establishes the geographical scope of the Bill in accordance with international law, including the United Nations Convention on the Law of the Sea of 10 December 1982.

The territorial sea of Greenland stretches three nautical miles (5,556 metres) from the baseline.

The continental shelf comprises the seabed and subsoil of the area that extends beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin. This follows from article 76 of the UN Convention on the Law of the Sea.

The continental shelf always extends to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. This also applies in the cases where the outer edge of the continental margin is closer to those baselines. In the cases where the coastal state’s continental shelf borders parts of the shelf which belong to other states, the delineation according to the Shelf Convention must be determined by agreement between neighbouring states. See article 76 of the UN Convention on the Law of the Sea.

The continental shelf at Greenland is not fully delineated in respect of the neighbouring states. The rights of a coastal state over the continental shelf are not conditional on formal

occupation or any declaration. Under article 77a of the UN Convention on the Law of the Sea, the rights over the continental shelf as such exist in and of themselves and independently of any delineation of the continental shelf.

To section 3

To subsection (1)

This subsection specifies in paras 1) - 4) the activities which are comprised by the Bill.

The subsection specifies that the Bill applies to prospecting, exploration, exploitation and scientific surveys of minerals and activities in relation and of relevance thereto.

See, among other provisions, paras 1) - 4) of section 22(2) and section 12 of the Bill and the relevant explanatory notes.

To subsection (2)

This subsection specifies in paras 1) - 3) the activities which are not comprised by the Bill. The activities mentioned in paras 1) - 3) fall outside the scope of the Bill as the activities are still governed by the Mineral Resources Act and are thus not comprised by the Bill.

The provision is intended to contribute to ensuring that all activities in the mineral area and activities in relation thereto will be comprised by either this Bill or the Mineral Resources Act, and that none of those activities will be comprised by this Bill as well as the Mineral Resources Act.

To section 4

This section specifies that the Bill applies to facilities and installations, etc. which are located in the territorial land, the territorial sea, the continental shelf area or the Exclusive Economic Zone of Greenland and which are used in connection with the performance of activities comprised by the Bill.

The section shall be seen in conjunction with subsequent sections 5 and 6 of the Bill.

To section 5

This section concerns the Bill’s application to offshore facilities, see section 18, including fixed and mobile offshore facilities, and offshore vessels, see section 19.

The section establishes, among other things, that the Bill applies to offshore facilities which are located in the territorial sea, the continental shelf area or the Exclusive Economic Zone of Greenland and are used in connection with the performance of activities comprised by the Bill. Reference is made to section 18 of the Bill on offshore facilities and the relevant explanatory notes.

The section further establishes that the Bill applies to offshore vessels which are located in the territorial sea, the continental shelf area or the Exclusive Economic Zone of Greenland and are used in connection with the performance of activities comprised by the Bill. Reference is made to section 19 of the Bill on offshore vessels and the relevant explanatory notes.

Under international law, the Greenland Self-Government has the exclusive right to explore for and exploit natural resources in the territorial sea, the continental shelf area and the Exclusive Economic Zone of Greenland. In this context, therefore, it does not matter whether an offshore facility is registered in Greenland, Denmark, the Faroe Islands or another country or whether it is Greenland owned or foreign owned. This is now expressly clear from section 6(3) of the Bill. Reference is made to that provision and the relevant explanatory notes.

To section 6

To subsection (1)

This subsection concerns safety zones around offshore facilities, see section 18.

Offshore facilities are surrounded by safety zones. The safety zones are governed by sections 115-117 of the Bill. Reference is made to those provisions and the relevant explanatory notes. See also subsections (2) and (3) on the application of the Bill in safety zones and the relevant explanatory notes.

To subsection (2)

This subsection provides that the Bill applies to all vessels, facilities, installations, equipment and objects which are located in a safety zone around an offshore facility. The safety zones are governed by sections 115-117 of the Bill. Reference is made to those provisions and the relevant explanatory notes.

The competence in relation to general marine matters in Greenland lies with the State. The Bill does not imply any changes to current marine legislation. The State's powers include, among other things, requirements to vessels engaged in ordinary transportation of passengers, equipment and exploited minerals, etc. The requirements to the vessels may include their construction, condition and ice class, etc. and rules on working environment aboard the

vessels and mobile facilities.

The competence in relation to mineral resource-related marine environment matters lies with the Greenland Self-Government. For example, the Government of Greenland may set terms in a licensee's exploitation licence concerning requirements to vessels which are used in the performance of activities under the licence.

To subsection (3)

This subsection specifies that the Bill applies irrespective of whether the facilities, vessels and structures, etc. mentioned in subsection (2) are from Greenland, Denmark, the Faroe Islands or from any other country.

Under international law, the Greenland Self-Government has the exclusive right to explore for and exploit natural resources in the territorial sea, the continental shelf area and the Exclusive Economic Zone of Greenland. In this context, therefore, it does not matter whether an offshore facility or a vessel, etc. is registered in Greenland, Denmark, the Faroe Islands or another country. Nor does it matter whether the facility or vessel is Greenland owned or foreign owned.

To section 7

To subsection (1)

This subsection specifies that, as regards section 6, the Bill also applies to other vessels which are used in connection with the performance of activities comprised by a licence granted under the Bill.

To subsection (2)

This subsection specifies that the Bill applies irrespective of whether the ships, marine vessels, facilities and aircraft, etc. mentioned in subsection (1) are registered in Greenland, Denmark, the Faroe Islands or in any other country.

Under international law, the Greenland Self-Government has the exclusive right to explore for and exploit natural resources in the territorial sea, the continental shelf area and the Exclusive Economic Zone of Greenland. In this context, therefore, it does not matter whether an offshore facility or a vessel, etc. is registered in Greenland, Denmark, the Faroe Islands or another country. Nor does it matter whether the facility or vessel is Greenland owned or foreign owned.

To section 8

To subsection (1)

This subsection specifies the activities in the territorial sea, the continental shelf area and the Exclusive Economic Area of Greenland and the air territory above which are comprised by the Bill.

The subsection must be construed and applied in accordance with subsections (2) - (4).

Furthermore, the provision must be interpreted in accordance with section 6 of Greenland Parliament Act No. 15 of 8 June 2017 on the Protection of the Marine Environment (the Marine Environment Act) (*havmiljøloven*) and the related explanatory notes on the delineation between marine environment issues and mineral resource-related marine environment issues. Thus, if activities are deemed to be comprised by the Marine Environment Act, see section 6 of that Act, the activities are not comprised by this Bill.

To subsection (2)

It follows from this subsection that activities which are not performed by a licensee or by the licensee's contracting party are not comprised by the licensee's licence in relation to the provision in subsection (1), regardless of the fact that the activity may be comprised by or directly related to the licence. By way of example, sailing as set out in subsection (1), para. 2), in connection with the authorities' performance of their supervision obligation will not be comprised by a licence as the activity is not performed by a licensee or the licensee's contracting party although the activity is directly related to the licence in question and terms on supervision have been set in the licence.

To subsection (3)

It follows from this subsection that the Bill applies only to a licensee under a licence etc. in so far as the licensee's activities or matters are governed by the Bill or terms of licences, etc.

To subsection (4)

This subsection specifies that the application of this Bill to the activities and persons mentioned in subsections (1) - (3), as described in subsections (1) - (3), will not exempt the parties from compliance with any other Greenland law or Danish law which also applies to the activities and parties mentioned in subsections (1) - (3). This means that if a matter or an activity is comprised by the Bill and other legislation, the person performing the activities must comply with the applicable provisions of the Bill as well as such other legislation.

It is further provided that the provisions of the Bill and the provisions and terms set under the Bill will as a general rule prevail over other legislation in the event of any discrepancy. This will typically be the case where the provisions of the Bill, or provisions and terms set under the Bill, impose more stringent or additional requirements on the person performing activities under the Bill than under the other legislation. For example, to ensure that activities are performed in accordance with acknowledged good international practice.

To section 9

The proposed section sets out the scope of the provisions of the Bill on environmental protection. It proposes a broad scope of application of the provisions on environmental protection, thus also covering the protection of climate and nature.

To subsection (1)

As indicated by the proposed provision in subsection (1), the provisions of the Bill on environmental protection also, but not exclusively, address climatic conditions (climate protection) and protection of the nature (nature conservation). However, this is only the starting point of this Bill, as the provision specifies that specific provisions may provide otherwise.

As regards climatic conditions, it should be noted that the concept includes both the very local microclimatic conditions, the CO2 contribution of the activity, as well as the consequences of future climate change, such as sea level rise.

Under this Bill, there may be an overlap with specific provisions in other Parts of this Bill which also address environmental matters. In case of overlap or duplication, the provision providing for the highest environmental standard, by which is meant the highest level of environmental protection, will prevail.

In applying the provisions of the Bill on environmental protection, regard may be had among other things to the Guidelines for Environmental Impact Assessment (EIA) in the Arctic developed by the Arctic Council under the Arctic Environmental Protection Strategy programme.

To subsection (2)

Under the proposed subsection, climate protection and nature conservation are similarly comprised by the provisions of the Bill on liability in damages, other responsibility and liability for pollution, other environmental impact (environmental responsibility and liability)

and compensation for environmental damage.

To section 10

To subsection (1)

This subsection defines what is meant by "minerals" for the purposes of the Bill.

The provision must be seen in light of the wish to regulate the mineral area separately. Reference is made to sections 1.1 and 2.7 of the general notes.

To subsection (2)

The provision in subsection (1) defines minerals as all mineral resources except hydrocarbons. It is therefore necessary to further define what is meant by "hydrocarbons" for the purposes of the Bill.

To section 11

This subsection defines what is meant by "mineral activities" for the purposes of the Bill. Mineral activities are a general umbrella term for all activities comprised by the Bill. This is the meaning which is generally ascribed to the term in the Bill.

By way of example, mineral activities include all activities comprised by a licence granted under the Bill, see section 12, and activities in relation thereto. Activities under an exploitation licence, see section 12(4), include, without limitation, exploitation of the minerals comprised by the licence as such. Mineral activities also include, without limitation, establishment and operation of the mining facility, other facilities, installations, buildings and infrastructure, etc. in connection with the exploitation activities. Mineral activities further include, without limitation, clean-up and restoration of the licence area and other affected areas, closure of the exploitation activities and subsequent monitoring, etc. Mineral activities also include all activities comprised by other licences under the Bill, including, for example, prospecting and exploration licences.

Furthermore, mineral activities also include activities which are comprised by the Bill, but can be performed without a licence thereto. See, for example, section 22(4) of the Bill concerning the Government of Greenland's right to perform certain scientific and practical surveys without a licence thereto.

The above list of examples of mineral activities is non-exhaustive. The term "mineral activities" must thus be construed generally and broadly as meaning all activities comprised

by the Bill.

To section 12

To subsection (1)

This subsection defines what is meant by “licence” for the purposes of the Bill.

Under the Bill, there are four different types of licences: prospecting licences, exploration licences, exploitation licences and scientific survey licences. Reference is made to subsections (2) - (5) and the relevant explanatory notes.

To subsection (2)

This subsection defines what is meant by “prospecting licence” for the purposes of the Bill.

Prospecting activities comprised by a prospecting licence include all activities which are performed by or on behalf of the licensee under the licence and matters in relation thereto.

In general, a prospecting licence covers the first and more overall stage of geological analysis to search for and delineate potential mineral deposits in a specified area. This includes, for example, geological and geo-chemical surveys and sampling using hand-held equipment for laboratory testing. Furthermore, prospecting may include, for example, offshore seismic surveys.

According to the current standard terms of prospecting licences in Greenland, a licensee under a prospecting licence may, among other things, carry out drilling using hand-held equipment. However, any activities under a prospecting licence which are not expressly stated in the licence document or the standard terms require the grant of an activity approval in addition to the prospecting licence. Examples of such activities are the use of explosive material and extensive sampling using hand-held equipment for laboratory testing. Reference is made to section 15(3) and section 120(1) of the Bill and the relevant explanatory notes.

A prospecting licence is non-exclusive and entitles the licensee to prospect for one or more minerals. A prospecting licence is generally granted for a large or quite large geographical area. A prospecting licence is granted under section 28. In general, reference is made to section 28 of the Bill and the relevant explanatory notes.

See also the discussion of differences and similarities between prospecting licences and exploration licences in the explanatory notes to subsection (3) below.

To subsection (3)

This subsection defines what is meant by “exploration licence” for the purposes of the Bill.

Exploration activities comprised by an exploration licence include all activities which are performed by or on behalf of the licensee under the licence and matters in relation thereto.

To a wide extent, an exploration licence includes the same surveying activities as a prospecting licence. See the explanatory notes to subsection (2). However, an exploration licence typically includes more specific and in-depth analyses of potential mineral deposits and matters in relation thereto. This may include, for example, geological, geo-chemical and geo-physical analyses. This may also include, for example, offshore seismic surveys.

A mineral exploration licence is exclusive and covers one or more minerals within the area specified in the licence. An exploration licence is granted under section 34. Reference is made to that section and the relevant explanatory notes.

Some of the major differences between prospecting licences and exploration licences are whether the licences are exclusive or non-exclusive and the size of the licence area. Another major difference is that the licensee under an exploration licence is required to carry out exploration activities during the licence period.

Under the Bill, there is no legal connection between a prospecting licence and an exploration licence in the sense that once a prospecting licence has been granted, the licensee would also be entitled to be granted an exploration licence. This also applies, for example, even if the licensee has substantiated and delineated a mineral deposit or a potential mineral deposit or viable mineral deposits.

The granting of an exploration licence is not subject to a prospecting licence already having been granted. As the licensee under an exploration licence holds the exclusive right to explore for minerals in the licence area comprised by the exploration licence, the licensee is entitled to explore for the minerals in the licence area without any other parties exploring for minerals in the same area. Thus, an exploration licence generally affords greater security with regard to investment in exploration activities and right to potential revenue, other exploration-related proceeds and benefits in relation thereto.

Furthermore, a licensee under an exploration licence is entitled to be granted a mineral exploitation licence if the licensee has substantiated and delineated a viable mineral deposit which the licensee intends to exploit, and if the licensee has performed all of its obligations in relation to the exploration licence and activities under the licence. This follows from section 41 of the Bill. Reference is made to that section and the relevant explanatory notes. However,

this does not change the fact that the other provisions of the Bill must be complied with, including the provisions on EIA and SIA reports. This subsection therefore does not preclude the imposition of conditions, for example as a result of the EIA and SIA rules, which make it difficult or impossible to realise a project which would otherwise be eligible for grant of an exploitation licence under section 41.

To subsection (4)

This subsection defines what is meant by "exploitation licence" for the purposes of the Bill.

Exploitation activities comprised by an exploitation licence include all activities which are performed by or on behalf of the licensee under the licence and matters in relation thereto. This includes, without limitation, establishment, operation and use of mining facilities, other facilities, installations, buildings and necessary infrastructure, including roads and ports, etc. It also includes, without limitation, performance of activities concerning exploitation, processing, storage, transport and sale of minerals and discontinuation of exploitation activities, including clean-up and restoration of the licence area and other affected areas.

An exploitation licence is exclusive for one or more minerals and for a specified licence area. An exploitation licence is not subject to an exploration licence already having been granted. In practice, an example of this would be a licensee who is granted a licence to exploit a viable mineral deposit which was comprised by a previous exploitation licence that has now terminated.

The grant of an exploitation licence requires, among other things, that the licensee under the exploitation licence fulfils some specified conditions. Reference is made to sections 41-46 and the relevant explanatory notes on the conditions for the grant of an exploitation licence etc.

To subsection (5)

This subsection defines what is meant by "scientific survey licence" for the purposes of the Bill.

In the context of minerals, scientific surveys include surveys concerning geological, geo-physical and geo-chemical matters. Scientific surveys can also include other matters of relevance to activities comprised by the Bill, including matters of relevance to prospecting, exploration or exploitation of minerals, glaciological and hydrological conditions or matters concerning exploitation of solar, wind or geothermal energy.

Results from scientific surveys may, for example, contribute to mapping out potential mineral deposits in a specified area and their exploitation potential. Such survey results may be a

factor in a company's decision of whether to apply for the grant of a mineral exploration licence in one or more relevant parts of the licence area in question.

A scientific survey licence may be granted, for example, to private enterprises, research institutions, educational institutions, public authorities or companies owned by the Self-Government.

To some extent, a scientific survey licence covers the same types of surveys as a prospecting licence, see subsection (2). Under a prospecting licence, however, the survey activities are performed in a commercial context or wholly or partly for a commercial purpose.

Under the special scientific survey licence available under subsection (5), the survey activities are carried out in a scientific context and for a scientific purpose and, thus, not in a commercial context or for a commercial purpose.

Furthermore, a scientific survey licence may be granted to the Geological Survey of Denmark and Greenland (GEUS) if GEUS would like to carry out scientific surveys and such surveys are not carried out by agreement with the Government of Greenland under section 22(4) of the Bill.

A scientific survey licence is granted under section 62. Reference is made to that section and the relevant explanatory notes.

To section 13

To subsection (1)

This subsection defines what is meant by "licensee" for the purposes of the Bill.

A licensee under a scientific survey licence may be a limited liability company or another party, for example the Geological Survey of Denmark and Greenland (GEUS). A licensee under a prospecting, exploration or exploitation licence can only be a single limited liability company.

For the purposes of the Mining Act, a limited liability company means a public limited company (A/S) or a private limited company (ApS) which is not an entrepreneur company (IVS). A prospecting licence may only be granted to a Greenland or foreign limited liability company. An exploration licence may only be granted to a Greenland or foreign limited liability company. An exploitation licence may only be granted to a Greenland public limited company.

The restrictions imposed with regard to exploitation licences to Greenland public limited companies having their registered office in Greenland are especially due to the fact that exploitation licences are generally associated with extensive activities and obligations, that the company must be subject to the highest equity requirement for a limited liability company having its registered office in Greenland and the rules on bookkeeping, accounting and annual reports, etc. for public limited companies having their registered office in Greenland and that the company must fall within the rules on reporting and payment of direct and indirect taxes for public limited companies having their registered office in Greenland. The restrictions satisfy the requirements to such licensee company under section 9(1)(i) of Act no. 474 of 13 June 2009 on Various Matters in connection with the Greenland Self-Government (*lov om forskellige forhold i forbindelse med Grønlands Selvstyre*).

To section 14

To subsection (1)

This subsection defines what is meant by "approval" for the purposes of the Bill.

Different types of approvals may be granted by the Government of Greenland under the Bill. See subsections (2) - (3) and the relevant explanatory notes.

According to the last limb of the provision, the Bill's definition of an approval only applies unless otherwise apparent from the context. This part of the provision is relevant in situations where, for example, the Bill refers to or mentions other approvals under other legislation, including under the Mineral Resources Act.

To subsection (2)

This subsection defines what is meant by "activity approval" for the purposes of the Bill.

An activity approval means any approval from the Government of Greenland of an activity under the Bill. As a result, an activity approval can be an approval of a plan for a licensee's activities and an approval of specific mineral activities.

To subsection (3)

This subsection defines what is meant by "export approval" for the purposes of the Bill.

Export of minerals from Greenland is subject to an approval granted under section 75.

Under section 75 of the Bill, the Government of Greenland may also set terms to the effect

that export of minerals from Greenland is subject to an export approval, even if the minerals in question have been legally exported from or imported to Greenland in the past. Thus, the Government of Greenland may set terms to the effect that all export of minerals from Greenland is subject to the grant of an export approval. This also applies if the minerals are in regular circulation between Greenland and one or more other countries.

An export approval is granted under section 75. Reference is made to the provisions and the relevant explanatory notes.

To section 15

To subsection (1)

This subsection defines what is meant by "mining plan" for the purposes of the Bill.

According to section 77 of the Bill, the licensee under an exploitation licence is required to prepare and submit a mining plan for activities and measures, etc. before beginning to perform exploitation or activities in preparation for or in relation to such exploitation. The mining plan must be approved by the Government of Greenland. This means that the activities in question must not be performed until they have been approved by the Government of Greenland in the form of the approval by the Government of Greenland of a mining plan prepared and submitted by the licensee.

Reference is made to section 77 and the relevant explanatory notes.

To subsection (2)

This subsection defines what is meant by "closure plan" for the purposes of the Bill.

According to section 80, the licensee is required to prepare, submit and be granted an approval of a closure plan by the Government of Greenland. Under section 80(2), the closure plan must be approved by the Government of Greenland on or before the date when the mining plan is approved. Under section 80(3), the closure plan must be approved by the Government of Greenland before the licensee begins the activity.

The closure plan must, among other things, provide a plan for the licensee's activities and measures, etc. on the licensee's termination and closure of the exploitation or activity. This includes a plan for what the licensee must do with regard to facilities and buildings, etc. established or used by the licensee and the licence area and other affected areas, and how the licensee must leave the licence area and other affected areas.

Reference is made to section 80 and the relevant explanatory notes.

To subsection (3)

This subsection defines what is meant by "activity plan" for the purposes of the Bill.

An activity plan may be a mining plan, see subsection (1), a closure plan, see subsection (2), or another plan concerning activities performed in connection with the performance of activities under a licence, including drilling, shaft sinking, drift driving, etc.

As a general rule, the licensee is not allowed to perform any activities until the Government of Greenland has approved a plan for the performance of the activities or approved the performance of the activities. The plan or activities must be approved under section 77, 80 or 120 of the Bill.

Under the provision in section 120, a prior approval must be obtained, among other things, when buildings, facilities and installations, etc. are established inside and outside of the licence area. The same applies to activities and measures for the performance of obligations on termination of the operations and the activities comprised by licences issued under the Bill.

Reference is made to section 120 and the relevant explanatory notes.

To section 16

This section defines what is meant by "provisions and terms" for the purposes of the Bill.

According to the last limb of the first sentence of the section, the Bill's definition of provisions and terms only applies unless otherwise apparent from the context. This part of the section is relevant in situations where, for example, the Bill refers to or mentions other provisions or terms than those set under the Bill, including, for example, provisions or terms set under the Mineral Resources Act.

The definition of provisions and terms in section 16 contributes to clarifying which legal instruments are available to the Government of Greenland to set specific provisions and terms under the Bill. This aspect is clarified particularly to safeguard the interests of individuals and companies who are not at all or only to a limited extent aware of the legislation and the legal system in Greenland.

To section 17

This section defines what is meant by "licensee's contracting parties" for the purposes of the Bill. Among other things, licensee's contracting party means a licensee's supplier of goods or services, including construction services or advisory services. The goods and services listed are non-exhaustive. A licensee's contracting party also includes any subcontracting party(ies) of the licensee's contracting party etc.

The definition in section 17 includes, for example, a construction firm which has a contract with the licensee to establish a mine under an exploitation licence granted to the licensee. The definition in section 17 also includes any subcontracting parties and other contracting parties having a contract with such construction firm to perform work in connection with the establishment of the mine.

For one thing, the definition in section 17 is relevant in relation to different contracts between the licensee under a licence under the Bill and the licensee's contracting parties and subcontracting parties. The definition contributes, together with the other provisions of the Bill, to ensure compliance with the provisions of the Bill and licence terms, etc., including in relation to reporting on and payment of taxes and other obligations for the licensee and the licensee's contracting parties and subcontracting parties, etc. The provision does not concern the contractual relationship arising from the conclusion of an impact benefit agreement (IBA) between a licensee and the Government of Greenland together with one or more municipalities.

Reference is made to section 110 of the Bill and the relevant explanatory notes on IBAs.

To section 18

To subsection (1)

This subsection defines what is meant by "offshore facilities" for the purposes of the Bill.

Section 18(1) of the Bill concerns mineral activities in an offshore area, which is the territorial sea, the continental shelf area and the Exclusive Economic Zone of Greenland. Reference is made to section 2 of the Bill. Reference is also made to sections 1.1 and 2.11 of the general notes.

Offshore facilities means, among other things, ships, barges and other vessels, platforms and other installations used for the exploitation of minerals in an offshore area, see subsection (1), para. 1). Offshore exploitation of minerals may take place on, in or below the seabed.

Offshore facilities also include ships, barges and other vessels, platforms and other installations used in the processing of minerals that have been exploited in an offshore or onshore area, see subsection (1), para. 2).

Offshore facilities also include ships, barges and other vessels, platforms and other installations used for the storage of minerals that have been exploited in an offshore or onshore area, see subsection (1), para. 3).

Offshore facilities further include ships, barges and other vessels, platforms and other installations used for the receipt, storage, reloading or dispatch of facilities, equipment, goods or other things used in connection with the performance of activities comprised by the Bill in an offshore or onshore area, see subsection (1), para. 4).

Offshore facilities also include ships, barges and other vessels, platforms and other installations used as the point of arrival, connecting point or point of departure in connection with transportation, temporary place of residence or place providing overnight accommodation for persons performing work or activities in connection with the performance of activities comprised by the Bill in an offshore or onshore area, see subsection (1), para. 5).

Offshore facilities further include ships, barges and other vessels, platforms and other installations used for the accommodation of persons performing activities comprised by the Bill in an offshore or onshore area, see subsection (1), para. 6). The provision includes ships etc. providing overnight accommodation for persons performing work on ships, barges and other vessels, platforms and other installations comprised by paras 1) - 5). The provision also includes ships etc. providing overnight accommodation for persons performing work relating to onshore mineral exploitation, but who are sailed out to an accommodation vessel after hours where they will sleep etc.

To subsection (2)

This subsection specifies what is meant by “mobile offshore facility” for the purposes of the Bill. A mobile offshore facility means any offshore facility which can be moved from one position to another by sailing, being navigated or towed, and which is intended for use on different locations throughout its lifetime. For example, a mobile offshore facility is a ship, barge or other vessel.

To subsection (3)

This subsection defines what is meant by “fixed offshore facility” for the purposes of the Bill. In general, fixed offshore facilities include all offshore facilities other than mobile offshore facilities. See the explanatory notes to subsection (2) above.

A fixed offshore facility is generally an offshore facility which is on a permanent site. For example, this may be a platform or other facility which is placed on a specific site and not intended for use elsewhere throughout its lifetime.

To section 19

This section of the Bill defines offshore vessels.

Offshore vessels means ships, barges and other vessels which are not offshore facilities under section 18(1) of the Bill and which perform activities in connection with offshore facilities. The provision includes, without limitation, service vessels, environment protection vessels, tow boats, anchor handling vessels, floating cranes and other vessels in short-term use.

The provision means that the tasks performed by such ships, barges and other vessels in connection with an offshore facility are comprised by relevant parts of the Bill.

To section 20

This section defines environmental damage and the party responsible and liable for environmental damage. Reference is also made to the explanatory notes to Part 14 on environmental responsibility and liability and Part 22 on compensation for environmental damage.

To subsection (1)

This subsection defines what is meant by “environmental damage” for the purposes of the Bill.

In general, environmental damage is characterised by a disruption of the natural ecological balance – primarily in the form of pollution. Pollution is to be understood in a broad sense, including noise, vibration, heat, light or the like.

To subsection (2)

Under the proposed subsection, the responsible and liable party means the party who performs, is in charge of or controls the performance of an activity comprised by this proposal.

To section 21

This section defines what is meant by "local mineral activities" for the purposes of the Bill.

Local mineral activities include, among other things, small-scale activities, exploitation of gravel, stone and similar minerals for use as building or construction materials as part of a construction or infrastructure project in Greenland and the right of local persons to collect and extract minerals without a licence thereto and activities comprised by Parts 8 and 11 of the Mineral Resources Act.

It is noted that the Government of Greenland plans to introduce a bill regulating these matters soon.

To section 22

To subsection (1)

This subsection makes it clear that the Greenland Self-Government owns and has the unrestricted power to use and exploit minerals in the subsoil of Greenland, and thereby also has the power to issue licences concerning minerals in the subsoil of Greenland.

This means, among other things, that in case of any unlicensed mineral collection or exploitation, the minerals or the revenue from the exploitation thereof will accrue to the Greenland Self-Government.

It also means that any samples taken according to a licence under the Bill belong to the Greenland Self-Government on termination of a scientific survey, prospecting, exploration or exploitation licence. This applies to samples which are in Greenland on termination of the licence as well as samples which are abroad.

The provision is in accordance with the Act on Greenland Self-Government. It follows from the Act on Greenland Self-Government that the Greenland Self-Government owns and has the unrestricted right to use and exploit the mineral resources in the subsoil of Greenland when the responsibility for the mineral resource area has transferred to the Self-Government.

Reference is made to section 6 of the general explanatory notes to the Act on Greenland Self-Government. The responsibility for the mineral resource area transferred to the Greenland Self-Government on 1 January 2010. Reference is made to sections 1.1 and 1.3.1 above.

To subsection (2)

This proposed subsection imposes a general ban on the performance of activities comprised

by the Bill in the absence of a licence thereto granted by the Government of Greenland according to the rules of the Bill in this regard.

However, activities may still be performed without a licence to the extent this follows from the Mineral Resources Act. This means that all activities in the mineral area and activities in relation thereto will be comprised by either this Bill or the Mineral Resources Act.

The subsection specifies in paras 1) - 4) the mineral activities under the Bill which require a licence granted by the Government of Greenland.

Parts 5-7 and 9 of the Bill provide rules on the grant of licences for mineral activities. Part 10 provides general rules for licences. Part 11 of the Bill provides rules on minerals etc., including on mineral export, processing and trading.

Although the Bill does not contain any provisions on related subsoil activities, pipelines and related energy activities, this does not mean that a licensee is precluded from engaging in such activities under the Bill. Such activities may be performed as related activities (side activities or secondary activities) in relation to the primary activities under a mineral licence, see section 3(1), para. 2), of the Bill in this regard. The performance of related subsoil activities or energy activities will be subject to an approval thereof granted by the Government of Greenland. For example, a licensee may apply for an approval by preparing and submitting a mining plan or other activity plan to the Government of Greenland, which includes subsoil and energy activities. Reference is made to section 121 of the Bill and the relevant explanatory notes.

To subsection (3)

The subsection provides that the activities in paras 1) - 2) of subsection (3) may be performed in Greenland only under approvals granted by the Government of Greenland under the provisions of the Bill. The proposed subsection imposes a general ban on the performance of activities comprised by the Bill without the requisite approvals being granted by the Government of Greenland, unless the activities are already approved under the licence.

In general, an approval is only available to a party who is a licensee under a licence under the Bill. However, an export approval may also be granted to a party who is not a licensee, see section 75(2). The reason is that in most cases, an approval covers activities which are either the primary activities under a licence or related activities (side activities or secondary activities) in relation to the primary activities under a licence.

The purpose of para. 2) is to specify that activities other than those mentioned in para. 1) can be subject to a requirement for approval from the Government of Greenland before the activities are performed. This will apply to all activities which are not covered by a licence.

Typically, activities covered by a licence will be less extensive activities which any licensee under the type of licence in question may be expected to perform on a regular basis, which means that it would result in a disproportionate administrative burden to require these activities to be approved in each case. These activities can, if they are mentioned in the licence, be said to be approved in the licence as such.

As an example of activities which require an approval, section 77 of the Bill may be mentioned. According to section 77, the licensee under an exploitation licence is required to prepare and submit a mining plan for activities and measures, etc., before beginning to perform exploitation or activities in preparation for or in relation to such exploitation. The mining plan must be approved by the Government of Greenland. This means that the activities in question must not be performed until a mining plan prepared and submitted by the licensee has been approved by the Government of Greenland.

In addition, it may follow from the terms of a licence or an approval granted by the Government of Greenland that the licensee is not allowed to perform certain activities until the Government of Greenland has approved a plan for their performance. In such case, the activities will have to be approved in accordance with the relevant terms of the licence or the approval under section 120 of the Bill.

To subsection (4)

This subsection provides a specific exception to the general approval requirement in section 22(2) of the Bill. The subsection is a standing authorisation from the Greenland Parliament to the Government of Greenland to perform surveys and mapping of relevance to the mineral area. Typically, such surveys and mapping are performed in the course of marketing the mineral area in Greenland or the geology of Greenland, or surveys and mapping in the general public interest.

The Government of Greenland may perform the survey activities itself or engage third parties to perform the activities. For example, the Government of Greenland may enter into an agreement with the Geological Survey of Denmark and Greenland (GEUS), the Danish Centre for Environment and Energy (DCE) or another party to perform the activities under subsection (3). In the situation mentioned above, GEUS, DCE or the other party may perform activities under subsection (3) for the Government of Greenland without a licence to do so and in accordance with the agreement with the Government of Greenland.

To subsection (5)

This subsection provides that subsections (1) - (3) do not apply to local mineral activities.

In general, the Mineral Resources Act still applies to small-scale mineral activities, including small-scale mineral exploration and exploitation, exploitation of gravel, stone and other minerals for local construction and infrastructure projects, mineral collection and extraction local persons without a licence thereto having been granted and the performance by local persons of geo-tourism activities concerning showing of minerals and geological conditions in Greenland for tourists, etc.

The subsection is intended to contribute to ensuring that all activities in the mineral area and activities in relation thereto will be comprised by either this Bill or the Mineral Resources Act.

To section 23

To subsection (1)

This subsection concerns the governance structure within the scope of the Bill.

The powers to administer the provisions of the Bill and make decisions under the Bill rest, in principle, with the Mineral Licence and Safety Authority and the Environmental Agency for Mineral Resources Activities (EAMRA). The Government of Greenland makes decisions of material importance and the decisions of the Mineral Licence and Safety Authority and EAMRA may be appealed to the Government of Greenland, see section 24 of the Bill and the relevant explanatory notes.

Thus, in practice, it will only be decisions concerning grant, material change, transfer, revocation and approval of surrender of a licence to explore for or exploit minerals which will be made by the Government of Greenland. Moreover, decisions on matters which may have a significant environmental or social impact are made by the Government of Greenland unless the Government of Greenland has set provisions to the effect that specific decisions are to be made by the Mineral Licence and Safety Authority and EAMRA.

In addition, the Government of Greenland will, as a general rule, make decisions in specific cases of fundamental legal importance to the decision of similar cases in future, or if there is otherwise deemed to be a need to lay down a new administrative practice in an area, decisions about initiation of compulsory acquisition, decisions to the effect that certain tasks under the Bill must be handled by other authorities or private parties and setting of terms and provisions in the form of executive orders.

As a general rule, all other decisions and all administrative processing will be handled by the Mineral Licence and Safety Authority and EAMRA.

To subsection (2)

This subsection proposes that the Mineral Licence and Safety Authority remain the competent administrative authority for the mineral area and that the environmental area be dealt with by the Environmental Agency for Mineral Resources Activities (EAMRA) under subsection (3).

The Mineral Licence and Safety Authority is responsible for all matters relating to the mineral area, with the exception of matters relating to the environment. Within its sphere of competence, the Mineral Licence and Safety Authority may make decisions, including on the approval or refusal to approve activity plans or other plans (except for environmental plans) or on the issuing of injunctions for compliance with the rules of the Bill or the terms of a licence (except for rules or terms relating to environmental matters).

An activity plan must be approved by the Government of Greenland if the plan includes activities that may have a significant impact on society. The same applies to social impact assessment (SIA) reports, see Part 16 of the Bill.

Appeals against decisions of the Mineral Licence and Safety Authority may be filed with the Government of Greenland, which will then decide on the cases, see section 24 of the Bill. The Government of Greenland may make a final decision on an appeal or refer it back to the Mineral Licence and Safety Authority for further consideration and decision.

To subsection (3)

The Environmental Agency for Mineral Resources Activities (EAMRA) remains the competent administrative authority under the Government of Greenland for environmental matters relating to mineral resources activities, including environmental, climate and nature protection, environmental responsibility and liability as well as environmental impact assessments.

As a general rule, EAMRA is responsible for environmental matters within the mineral resource area.

As the competent administrative authority within the area of environmental protection, EAMRA is competent to make decisions or have draft decisions as well as assessments and opinions prepared.

However, this does not change the fact that the regulatory process and communication within the mineral resource area are organized according to the so-called "one door principle".

Appeals against decisions of the Environmental Agency for Mineral Resources Activities (EAMRA) may be filed with the Government of Greenland, which will then decide on the cases, see section 24 of the Bill. The Government of Greenland may make a final decision on an appeal or refer it back to EAMRA for further consideration and decision.

The assessments, recommendations, decisions and opinions of EAMRA are based on assessments and draft decisions of one or more scientific and independent environmental institutions.

Where the Government of Greenland has not delegated authority to another authority and thus is to make a decision, the authorities' recommendation for decisions etc. will as always be a comprehensive recommendation concerning all matters. The authorities' recommendation will thus continue to be accompanied by the assessments etc. from the independent environmental institutions in their full length.

In accordance with usual practice, neither the Government of Greenland nor the mineral resource authorities are bound by the assessments or recommendations of the scientific institutions. These assessments are part of an overall decision, and in their recommendation or decision, the mineral resource authorities may attach importance to other things than the scientific institutions, including applying a stricter or more lenient interpretation. In all cases, the final decision and ruling rests with the Government of Greenland or the authority to which the Government of Greenland has delegated decision-making authority, and the decision is thus taken by the authority concerned on the basis of a weighing of all the factors and a weighing of all the elements in relation to the requirements of the Bill.

To subsection (4)

This subsection specifies that a collective and integrated approach is applied with regard to administrative processing in the mineral area. The administrative processing comprises all matters in relation to minerals, mineral activities, use of the subsoil for storage or other purposes in relation to mineral activities, related energy activities, related pipeline activities and other activities in relation thereto.

The collective and integrated approach to administrative processing is intended to ensure a continued holistic approach to administrative processing in the technically difficult administrative areas which require knowledge of mineral activities, related activities, mineral licences, geological, technical and economic matters in relation thereto and matters of potential significance to health and safety, environmental protection, resource utilisation and

social sustainability in relation thereto.

Furthermore, the collective and integrated approach to administrative processing is envisaged to ensure and strengthen professional environments which are capable at all times of handling tasks at the level that is required in connection with the administration of the mineral area and expected by national and international mineral enterprises.

The provision is supplemented by the proposed provision in subsection (7). According to that provision, the authorities mentioned in subsection (1) are also the responsible and competent authority under other statutes and rules with respect to minerals, mineral activities and related activities. See subsection (7) and the relevant explanatory notes.

To subsection (5)

Under subsection (5), administrative processing and communication in the mineral area will be organised according to the so-called one door principle. This means that the licensee and other parties comprised by the Bill will generally communicate with one regulatory entity.

To subsection (6)

According to this subsection, the Mineral Licence and Safety Authority will continue to coordinate actions with EAMRA to the extent that environmental assessments, opinions and decisions are required within the mineral area.

According to the Bill, the processing of cases within the mineral area is organised such that the Mineral Licence and Safety Authority does not process a case, make a decision or submit a recommendation to the Government of Greenland without first consulting EAMRA if it is necessary in that connection to make an assessment or decision concerning environmental matters.

In these cases, the Mineral Licence and Safety Authority, as coordinating authority, must obtain an opinion or decision from EAMRA.

Furthermore, EAMRA must on its own initiative inform the Mineral Licence and Safety Authority about its processing and decisions. This is to ensure, among other things, that the Mineral Licence and Safety Authority is able to fulfil its function as coordinating administrative authority within the mineral resource area.

The administration of environmental matters within the mineral resource area is based on the basic premise that the technical advisors of EAMRA perform environmental assessments and prepare draft decisions (recommendations) on environmental matters. As mentioned above in

the explanatory notes to subsection (3), this ensures that the authorities' assessments and decisions on environmental matters continue to be based on the assessments and draft decisions of a scientific and independent environmental institution.

This implies that, in general, cases concerning assessments or decisions relating to environmental matters must be dealt with in accordance with the following procedures and principles:

When the Mineral Licence and Safety Authority receives a case that also concerns environmental matters, the Mineral Licence and Safety Authority will forward the case to EAMRA and request an opinion or decision from the latter. EAMRA then asks the technical adviser to prepare the necessary assessments, opinions and draft decisions. Once EAMRA has received the material from the technical adviser, EAMRA will review the material and prepare comments as necessary. EAMRA will forward the technical adviser's material to the Mineral Licence and Safety Authority, together with any comments, recommendations and decisions which EAMRA may have.

If the matter must be submitted to the Government of Greenland, the Mineral Licence and Safety Authority will submit the matter to the Government of Greenland. In this connection, the Mineral Licence and Safety Authority will forward the material from the technical advisor and EAMRA in unchanged form. The Government of Greenland will then decide on the matter.

To subsection (7)

Subsection (7) of the Bill contributes to providing for the authorities mentioned in subsection (1) the basis for the collective and integrated approach to administrative processing in the mineral area in practice as it specifies that, where possible and for purposes of the administration of the Bill, the authorities mentioned in subsection (1) are also the competent authorities under other laws and rules.

To section 24

This section proposes that, as at present, a decision by the Mineral Licence and Safety Authority or EAMRA may be appealed to the Government of Greenland, which will then decide on the matter.

The appeal rules thus allow a case to be heard and decided in two instances, unless the case has been decided in the first instance by the Government of Greenland. This is generally consistent with the consideration for due process as regards the decision of the individual case.

The appeal rules allow any case to be heard and decided by the Government of Greenland. This is consistent with the consideration that matters of substantial importance should generally be decided or be capable of being decided by the Government of Greenland as the Self-Government's supreme administrative authority.

To subsection (1)

According to subsection (1), those who are considered entitled to appeal under the provision may appeal to the Government of Greenland against a decision by the Mineral Licence and Safety Authority or the Environmental Agency for Mineral Resources Activities (EAMRA). Thus, an appeal may not be filed with any other administrative authority or appeals board.

All persons who may be deemed to have an essential individual interest in the outcome of the case are to be regarded as parties under para. 1). In addition, certain associations and organisations have a right of appeal under para. 2).

The provision does not preclude judicial review or review by the Parliamentary Ombudsman.

To subsection (2)

This subsection sets a time-limit of six weeks for filing an appeal to the Government of Greenland against a decision by the Mineral Licence and Safety Authority or the Environmental Agency for Mineral Resources Activities (EAMRA).

The provision contains two rules on when time begins to run for appeals. If a decision has been notified to a party, the time-limit for appeal begins to run from the date of notification. If a decision has been made public, the time-limit for appeal begins to run from the day of publication.

The provision contains a single rule on the expiry of the time-limit for appeal. If the time-limit for filing an appeal expires on a Saturday or a public holiday, the time-limit for filing an appeal will be extended to the next business day.

An appeal cannot be brought before the Government of Greenland after the time-limit for appeal has expired.

To subsection (3)

It follows from this subsection that an appeal must be filed in writing, including by means of electronic communication like for instance email, and that the appeal must be filed with the

authority which issued the decision, which will be the Mineral Licence and Safety Authority or the Environmental Agency for Mineral Resources Activities (EAMRA).

To subsection (4)

This subsection proposes that an appeal regarding a licence, approval or exemption is not to have a suspensive effect unless otherwise decided by the Government of Greenland. Under subsection (5), the Government of Greenland may set provisions to the effect that appeals against other types of decisions have suspensive effect.

To subsection (5)

Under subsection (5), the Government of Greenland may set provisions to the effect that the rights under specific licences, approvals or exemptions may not be exercised within the time-limit for appeal.

To subsection (6)

This subsection provides that, as a general rule, an appeal against a prohibitory or mandatory injunction will not have a suspensive effect. The reason for this is that prohibitory or mandatory injunctions are usually applied where the supervisory authority has needed to stop an activity immediately.

To section 25

To subsection (1)

This subsection sets a general time-limit of one year for decisions to be brought before the ordinary courts. The choice of a general time-limit of one year is intended to secure clear and conclusive determination of the parties' legal position in this area. The Bill is a re-enactment of the legal position provided under the Mineral Resources Act.

The provision applies to actions concerning the decision as such, including, for example, judicial review of the validity or effects of the decision, and actions concerning claims for damages, other claims for payment or other claims concerning or in relation to the decision.

The provision contains two rules as to when time begins to run. Time begins to run from the date of notification of the decision to a party. However, if a decision is published, time always begins to run from the date of publication. The provision also includes a rule on expiry of the time-limit. If the ordinary time-limit expires on a Saturday, Sunday or public holiday, the time-limit will be extended to the next business day. If, by way of example, time begins to run

Thursday, 1 February 2024, the last day to bring proceedings before the ordinary courts is 1 February 2025. Thus, with 1 February 2025 being a Saturday and 2 February 2025 being a Sunday, the last day to bring proceedings is Monday, 3 February 2025.

The provision in subsection (1) is intended to ensure that citizens, authorities and businesses will obtain clear and conclusive determination of their legal rights within a reasonable time. Licensees and other parties performing activities within the scope of the Bill also need to be able to act in reliance on decisions that have been made, without the uncertainty associated with longer time-limits for bringing proceedings and the decision being changed by the ordinary courts or an arbitration court.

Similar provisions can be found in Danish legislation. In the Danish Environmental Protection Act (*miljøbeskyttelsesloven*), the default time-limit for bringing decisions concerning matters comprised by the Act before the ordinary courts is six months. In some cases, however, the Environmental Protection Act provides for a 1-year time-limit. In the Danish Planning Act (*planlægningsloven*), the time-limit for bringing decisions before the ordinary courts is also six months.

One thing which the two Danish Acts have in common is that they govern material public interests where there is a public need for clear and conclusive determination of the legal position of the relevant parties within a reasonable time. The same need exists within the area of the Bill.

To subsection (2)

This subsection provides that if a decision is brought before the ordinary courts, this will have no suspensive effect, unless otherwise decided by the Government of Greenland.

If a decision is brought before the ordinary courts and suspensive effect is granted, the decision will only take effect when the case has been determined without the decision being revoked or amended or when the case has been dismissed or waived or otherwise ends.

When deciding the issue of suspensive effect, regard may be had, among other things, to whether the decision may have material adverse effects on society or other material matters. As already mentioned, however, the general rule is that if a decision is brought before the ordinary courts, no suspensive effect will be granted.

To subsection (3)

This subsection provides that a decision comprised by the Bill may only be brought before the courts having jurisdiction in Greenland in Greenland.

To section 26

This section imposes an obligation on the Government of Greenland to prepare and publish a report on licence applications, licences granted, and planned and completed licensing rounds each year. The report is intended to serve as general information from the Government of Greenland to the Greenland Parliament and the general public concerning activities under this Bill.

The Government of Greenland must submit the report to the members of the Greenland Parliament and publish the report.

To section 27

This section imposes an obligation on the Government of Greenland to inform a relevant committee under the Greenland Parliament before deciding cases regarding matters which may have a significant social or environmental impact, for example decisions on granting of exploitation licences.

Experience from the mineral area has shown that the importance of the mineral area to Greenland is increasing and may continue to increase from an economic and industrial perspective. Therefore, there is still a need for parliamentary insight into and oversight of the area. The Bill is not intended to influence any previous or future decisions of the Greenland Parliament with regard to setting up specific committees or allocating powers or responsibilities between parliamentary committees.

It is assumed that the Government of Greenland and the relevant committee will subsequently agree on the extent of the information to be given. The section is not intended to overload the committee with heavy technical reports and the like, but only to emphasise the most important matters.

To section 28

This subsection concerns the grant of a non-exclusive mineral prospecting licence.

In general, prospecting covers the first and more overall stage of geological analysis to search for and delineate potential mineral deposits in a specified area. One of the purposes of prospecting is in general to create the basis for initially examining the possibilities of initiating actual activities to explore for minerals in the area in question.

See the definition of a prospecting licence in section 12(2) of the Bill and the relevant

explanatory notes.

According to the Bill, as mentioned, only non-exclusive prospecting licences may be granted. This means that two or more licensees may be granted prospecting licences which cover the same geographical area in whole or in part. A prospecting licence is generally granted for a very large geographical area and for all minerals.

A prospecting licence covers studies relating to one or more minerals. The reason why a licence does not cover all minerals is that there may be certain minerals that the Greenland Self-Government does not wish to be exploited. In practice, a prospecting licence will, under its standard terms, cover all minerals, with the exception of the mineral or minerals which may be prohibited from exploitation by law or order.

The fact that a mineral is not covered by the licence does not mean that no studies may be carried out on the mineral or that no reports must be submitted to the Government of Greenland on the mineral. What it means is that in certain areas where the mineral is found, there may be restrictions which mean that these areas are not covered by the licence or, if a licence has already been granted, is excluded from the licence area.

The Government of Greenland may set terms in prospecting licences on all relevant matters and considerations. The terms must be set in accordance with the Bill and its purpose. Reference is made to sections 1 and 33 of the Bill on the setting of terms in a prospecting licence and the relevant explanatory notes.

The grant of a prospecting licence under section 28 of the Bill does not imply any commitment to the licensee to the effect that the licensee may have a right or a preferential right to be granted a mineral exploration or exploitation licence etc. under sections 34 and 43 of the Bill.

To section 29

To subsection (1)

This subsection provides that the licensee under a prospecting licence must be a limited liability company.

Public limited companies, private limited companies and entrepreneur companies are all limited liability companies and, as such, covered by the legislation on limited liability companies in Greenland under the Danish decree for Greenland on commencement of the Danish Companies Act (*selskabsloven*).

Under the subsection, however, the licensee cannot be an entrepreneur company although an entrepreneur company is a special type of private limited company. One of the reasons is that the minimum registered capital required for an entrepreneur company is only DKK 1, whereas the minimum capital required for a private limited company is DKK 50,000. The capital of a private limited company will thus in general be greater than that of an entrepreneur company.

The Government of Greenland will decide whether a company having its registered office in another country is equivalent to a public limited company or a private limited company not being an entrepreneur company and having its registered office in Greenland and, thus, whether it is eligible to apply for a prospecting licence.

Decisions in this regard must be made in accordance with section 29 and for the purpose of ensuring that for the specific type of companies fundamental and significant requirements are made in relation to regulation, registration, capital, economic and financial capability (financial capacity), management, bookkeeping and accounts, etc.

It is further provided that the licensee company must be registered as a business enterprise in Greenland, which means, according to the existing relevant rules, that the company must be registered with the Danish Central Business Register (CVR). This is required, among other things, for purposes of the company's tax reporting.

To subsection (2)

This subsection provides that a licensee under subsection (1) must meet certain requirements throughout the licence period.

To subsection (3)

This subsection provides that the Government of Greenland has competence to decide which foreign companies are deemed to be the equivalent of a public limited company and a private limited company having its registered office in Greenland.

Thus, the Government of Greenland may decide that the licensee under a prospecting licence can or cannot be a specific type of limited liability company having its registered office in a country other than Greenland.

To section 30

To subsection (1)

Under this subsection, a prospecting licence is granted for a licence period of up to five years.

Thus, the licence period of a prospecting licence may be less than five years, including, for example, three years, but cannot exceed five years.

This subsection does not preclude a prospecting licence from being extended. See subsections (2) and (3) and the relevant explanatory notes.

To subsection (2)

This subsection concerns the extension of a licence period of a prospecting licence granted under section 28.

Under this subsection, the Government of Greenland may extend the licence period of up to five years under subsection (1) by one or more periods of up to five years each.

By way of example, a licence period can be extended from five years to eight or 10 years by an extension under subsection (2). If the licensee submits an application in this regard and the Government of Greenland approves the application, the licence period may be further extended from, for example, eight to 10 years or from 10 to 12 or 15 years.

The reason for imposing limitations on the duration of the licence periods of prospecting licences is that the Government of Greenland has an interest in ensuring that the data collected under the licence can be published as soon as possible. As a general rule, therefore, an extension of the licence period will be granted in cases where the licensee's interest in maintaining the confidentiality of the collected data, see section 32(2), is deemed to override the Government of Greenland's interest in publication. For example, this would be the case if a licensee continuously collects large amounts of data with a view to selling them. When the decision of whether to grant an extension of the licence period is made, the licensee's motivation for applying for an extension will often be the deciding factor for whether an extension is granted.

The total licence period of a prospecting licence cannot exceed 15 years, see subsection (4).

To subsection (3)

This subsection provides the authority for the Government of Greenland to set changed licence terms in connection with any extension of the licence period to a total licence period exceeding 10 years.

Under this subsection, the Government of Greenland may set changed licence terms where the original licence period is extended to a total licence period exceeding 10 years.

Thus, the Government of Greenland may not set changed terms at the initial extension of the licence period, see subsection (2), as the initial extension of the licence period cannot lead to a total licence period of more than 10 years. If the original licence period was granted for a period of five years and the initial extension was granted for a period of five years, the Government of Greenland may set changed licence terms in connection with any other extension of the licence period, see subsection (2).

To subsection (4)

This subsection imposes an upper limit on the duration of the total licence period of a prospecting licence. Under the subsection, the total licence period of a prospecting licence cannot be longer than 15 years. See also the explanatory notes to subsection (2) above.

If a licensee wishes to perform additional prospecting activities after a licence period of 15 years, the licensee must apply for the grant of a new prospecting licence under section 28.

To subsection (5)

This subsection provides that a prospecting licence may terminate at an earlier point in time than on expiry of the licence period under subsections (1)-(4). By way of example, this would be the case if, prior to expiry of the licence period, the Government of Greenland approves that the licensee surrenders the prospecting licence to the Government of Greenland.

To section 31

To subsection (1)

This subsection clarifies and details the Government of Greenland's statutory authority to set provisions on the payment of a charge for receiving and processing an application for the grant of a prospecting licence under section 28 or an extension of the licence period under a prospecting licence under section 30(2) and for the grant of a prospecting licence or an extension of the licence period. The subsection further clarifies and details the Government of Greenland's statutory authority to set provisions on the payment of a charge for administrative processing concerning a prospecting licence or an extension of the licence period under a prospecting licence.

The Government of Greenland may set provisions on the payment of charges as stated above in an executive order. Reference is made to section 16 of the Bill and the relevant explanatory notes.

To subsection (2)

This subsection clarifies and details the Government of Greenland's authority to set provisions and terms on the licensee's payment of consideration to maintain a prospecting licence and activities under the licence, etc.

By way of example, such provisions and terms could be provisions on an annual consideration for the prospecting rights or charges relating to certain activities.

Consideration may constitute a part of the potential payments received by the Treasury from a licensee for its right to perform activities under a prospecting licence and potential economic and commercial advantages in this regard. When setting the amount of the charge, regard may be had to a number of factors, including the market conditions prevailing in the mineral sector.

Consideration for the performance of specific activities could, for example, also be an amount which is paid into a fund or pool which is used to cover the expenses incurred by the Government of Greenland in connection with cleaning up after mineral activities in cases where the licensees under the Bill fail to comply with their cleaning-up obligations and no security has been provided for those obligations or the security provided is insufficient.

The amount of consideration can only be set with prospective effect, meaning that the setting of considerations in an executive order will only apply to licences granted after the publication of the executive order and that considerations set in licences cannot be changed during the licence period set in the licence.

To subsection (3)

This subsection provides the statutory basis for the Government of Greenland, at its discretion, to charge amounts to cover any expenses incurred by the Government of Greenland in connection with case processing and administrative processing under this Bill. By way of example, the subsection covers collection of expenses for case processing, supervision, other administrative processing, business trips and external advisers and consultants, etc.

The amount payable may be collected as a charge or as reimbursement of expenses.

The amount payable for administrative processing may, for example, be collected on the basis of an hourly rate for the hours currently spent on case processing and other administrative processing, including the grant of licences and approvals, etc.

Any expense can be collected as a charge or as reimbursement of expenses to the extent that

the payment generally corresponds to the expenses incurred by the Government of Greenland for case processing and administrative processing. Thus, it is not the intention that, on the basis of the authority provided in this subsection, expenses to be collected as charges or as reimbursement of expenses beyond the expenses which the Government of Greenland has generally incurred or is generally expected to spend on case processing and administrative processing.

To section 32

To subsection (1)

This subsection concerns the licensee's reporting to the authorities.

Under this subsection, the licensee under a prospecting licence must generally submit to the Government of Greenland reports on the activities performed by the licensee under the licence, copies of the results obtained as well as samples to the extent that provisions or terms to this effect are set by the Government of Greenland, see subsection (6) and the relevant explanatory notes.

To subsection (2)

This subsection provides that the licensee's reports, prospecting results, data, samples and interpretations, conclusions and recommendations, etc. submitted to the Government of Greenland are confidential.

It is necessary to set rules on confidentiality as the information mentioned above may constitute trade or business secrets which shall remain and be treated as confidential for a reasonable confidentiality period. If the Government of Greenland is or may be required to disclose such information etc., including in connection with an access request, this could give others an improper advantage.

The provision is in accordance with the Greenland Parliament Act on Access to Public Administration Files (*landstingslov om offentlighed i forvaltningen*). It follows from section 3(1) of the Act that the Government of Greenland may set rules to the effect that specified public authorities, fields of responsibility or document types for which the provisions in sections 7 - 14 generally allow refusal of access requests, must be exempted from the Act.

As a general rule, the information under subsection (1) will fall within sections 12 - 14 of the Greenland Parliament Act on Access to Public Administration Files. Subsection (2) will thus ensure, together with the above-mentioned provisions of the Greenland Parliament Act on Access to Public Administration Files, that information exchanged in the Government of

Greenland and submitted to committees of the Greenland Parliament is exempted from access.

Under the subsection, the confidentiality period is generally the entire licence period, but see subsections (3) and (4), and five years after the deadline for submission to the Government of Greenland.

In general, thus, the information under subsection (1) will be confidential until the licence terminates and may remain confidential after the termination of the licence to the extent that the deadline for submission is less than five years before the end of the licence period.

To the extent that the information under subsection (1) must be submitted at a time when the remaining licence period is less than five years, the information will remain confidential until the licence terminates and for a period after the termination of the licence which will be five years as from the deadline for submission. This means that the information under subsection (1) is confidential until 1 January 2028 if the deadline for submission is 1 January 2023, even if the licence in question terminates on 1 January 2026. If, instead, the licence is extended under section 30(2) of the Bill so as to terminate on 1 January 2031, the information in question will remain confidential until that date.

On expiry of the confidentiality period, the licensee's reports, prospecting results, data, samples and interpretations, conclusions and recommendations, etc. will belong to the licensee as well as the Greenland Self-Government, see subsection (5). Reference is made to the provision in subsection (5) and the relevant explanatory notes.

To subsection (3)

This subsection provides that during the confidentiality period, the Government of Greenland may publish general information about the confidential information, reports, prospecting results, data, samples, interpretations, conclusions and recommendations, etc.

Under the subsection, before any such general information is published, the Government of Greenland must send the information to the licensee and inform the licensee that it may submit its comments and any reasoned objection to the publication of all or some of the information within a reasonable time-limit of no less than 14 calendar days. If, before the expiry of the time-limit, the licensee submits an objection to the publication of all or some of the information, the Government of Greenland will not publish the relevant information if the licensee's interest in confidentiality is deemed to override the Government of Greenland's interest in publication of the information in question.

By way of example, the Government of Greenland's interest in publishing information of a general nature may be its interest in safeguarding public health, a statutory duty to publish

certain information or in connection with the marketing of the geology of Greenland. When determining whether general information under this subsection can be published although an objection has been received from the licensee, regard may be had to factors such as any commercial interest of the licensee in maintaining the confidentiality of the information, whether the publication of the information would be contrary to the rules of a stock exchange where the licensee is registered, and whether the individual licensee is identifiable in spite of the general nature of the information.

To subsection (4)

This subsection is intended to provide the basis for the Government of Greenland's publication at any time of environmental data and environmental reports that are deemed to be of general public interest. This may in particular be the case where citizens residing or having business interests in the immediate vicinity of mineral activities may be affected by the potential environmental impact of the activities.

To subsection (5)

This subsection provides that when the confidentiality period expires under subsection (2), the submitted reports, prospecting results, data, samples, interpretations, conclusions and recommendations, etc. belong to the licensee as well as the Greenland Self-Government, and the licensee and the Greenland Self-Government will both be free to use them.

The ownership rights of the Greenland Self-Government only include material that is attributable to mineral activities in Greenland. By way of example, the Greenland Self-Government will have no rights in software and methods used to produce the material.

In practice, licences or terms of licences under the Mineral Resources Act often contain corresponding or similar terms. The same is expected to be the case for licences under the Bill. However, it is considered to be more appropriate for the provision to be expressly stated in the Bill.

The current standard terms of 23 June 2013 for mineral exploration and prospecting licences also contain similar provisions.

To subsection (6)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the matters mentioned in subsections (1) - (5). An example of this would be provisions or terms on the content, format and frequency of the reports, including on their submission by specific time-limits, in connection with the performance of specific activities and the occurrence of specific events or conditions.

Another example would be provisions or terms on the possibility for the Government of Greenland to publish general information about specific activities, results, events and matters, etc.

The Government of Greenland may set specific rules in this regard in executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals. Reference is made to section 16 of the Bill and the relevant explanatory notes.

To section 33

To subsection (1)

This subsection provides the authority for the Government of Greenland to set provisions and terms on all relevant matters concerning the grant of a mineral prospecting licence and matters in relation thereto.

The subsection must be construed and applied in accordance with section 28 of the Bill concerning the grant of a prospecting licence on specific terms.

Among other things, the Government of Greenland may set provisions in executive orders, model licences, application procedures, other procedures and guidelines concerning prospecting licences set under the Bill. The Government of Greenland may also set terms in standard terms for prospecting licences and approvals concerning prospecting licences and terms in decisions made under the Bill. Reference is made to section 16 of the Bill and the relevant explanatory notes which define what is meant by “provisions and terms” for the purposes of the Bill.

The prospecting licence document will state a number of formalities such as licence type, licence area, licence period and identification of licensee.

In addition, a number of other terms will apply which may be set in executive orders, model

licences, application procedures, other procedures and guidelines concerning prospecting licences or in the licence document itself. By way of example, this may be requirements to the licensee's organisation, activities comprised by the licence, the circumstances under which the licence may be terminated, the licensee's obligations after termination of the licence, any obligations of the licensee with regard to performing prospecting activities in the licence period, requirements to safety, environmental protection and social sustainability, the licensee's obligation under certain circumstances to prepare environmental impact assessments and reports thereon (EIA reports), social impact assessments (SIAs) and reports thereon (SIA reports) and enter into impact benefit agreements (IBAs), submission and approval of activity plans, provision of security for the licensee's obligations under the Bill, the licensee's insurance matters, the licensee's liability in damages, the licensee's reporting on prospecting and submission to the Government of Greenland of data and samples, etc., confidentiality, the licensee's payment of charges and considerations to the Government of Greenland and the licensee's use of local workers and suppliers.

To section 34

This section concerns the grant of exclusive mineral exploration licences. Under the proposed section, mineral exploration licences may only be granted as exclusive licences. This means that two or more licensees will not be granted exploration licences which cover the same geographical area in whole or in part.

To a wide extent, exploration activities typically include the same analysis activities as a prospecting licence, see section 28 and section 12(2). However, exploration licences typically include more specific and in-depth analyses of potential mineral deposits and matters in relation thereto. This may include, for example, geological, geo-chemical and geo-physical analyses. An exploration licence could also include offshore seismic surveys.

Exploration activities include all activities which are performed by or on behalf of the licensee under an exploration licence, including the establishment of necessary buildings, installations and infrastructure, etc., and other activities in relation to the exploration activities.

It follows from this provision that an exploration licence is granted for a specified area and on specified terms. The licence must thus, among other things, specify a licence area. The licence must also set out the terms governing other relevant matters in connection with the exploration activities.

An exploration licence covers studies relating to one or more minerals. The reason why a licence does not cover all minerals is that there may be certain minerals that the Greenland Self-Government does not wish to be exploited. In practice, an exploration licence will, under

its standard terms, cover all minerals, with the exception of the mineral or minerals which may be prohibited from exploitation by law or order.

The fact that a mineral is not covered by the licence does not mean that no studies may be carried out on the mineral or that no reports must be submitted to the Government of Greenland on the mineral. What it means is that in certain areas where the mineral is found, there may be restrictions which mean that these areas are not covered by the licence or, if a licence has already been granted, is excluded from the licence area. The specific impact on the exploration licence of the prohibition against the exploitation of one or more minerals will be determined by the laws and regulations issued in connection with the prohibition and the terms of the licence.

The Government of Greenland may set terms in exploration licences on all relevant matters and considerations. Reference is made to sections 1 and 40 of the Bill on the setting of terms in an exploration licence and the relevant explanatory notes.

To section 35

This section provides that the Government of Greenland must carry out a public consultation on an application before granting an exploration licence.

The section is intended to ensure that all interested parties, such as NGOs, municipalities or citizens, holding rights under other legislation over the same area as that covered by the application, will be entitled to object to the grant of the licence. Objections may result in the licence not being granted or the licence being granted on special terms.

It is important that citizens and other interested parties are given an opportunity to object at this stage in the process as a licensee under an exploration licence, see section 34, is entitled to be granted a mineral exploitation licence, see section 41, if the requirements of this provision are satisfied.

To section 36

To subsection (1)

This subsection provides that the licensee under an exploration licence must be a limited liability company.

Public limited companies, private limited companies and entrepreneur companies are all limited liability companies and, as such, covered by the legislation on limited liability companies in Greenland under the Danish decree for Greenland on commencement of the

Danish Companies Act (*selskabsloven*).

Under the subsection, however, the licensee cannot be an entrepreneur company although an entrepreneur company is a special type of private limited company. One of the reasons is that the minimum registered capital required for an entrepreneur company is only DKK 1, whereas the minimum capital required for a private limited company is DKK 50,000. The capital of a private limited company will thus in general be greater than that of an entrepreneur company.

The Government of Greenland will decide whether a company having its registered office in another country is equivalent to a public limited company or a private limited company not being an entrepreneur company and having its registered office in Greenland and, thus, whether it is eligible to apply for an exploration licence.

Decisions in this regard must be made in accordance with section 36 and for the purpose of ensuring that for the specific type of companies fundamental and significant requirements are made to regulation, registration, capital, economic and financial capacity, management, bookkeeping and accounts, etc.

It is further provided that the licensee company must be registered as a business enterprise in Greenland, which means, according to the existing relevant rules, that the company must be registered with the Danish Central Business Register (CVR). This is required, among other things, for purposes of the company's tax reporting.

To subsection (2)

This subsection provides that a licensee under subsection (1) must meet certain requirements throughout the licence period.

To subsection (3)

This subsection provides that the Government of Greenland has competence to decide which foreign companies are deemed to be the equivalent of a public limited company and a private limited company having its registered office in Greenland.

Thus, the Government of Greenland may decide that the licensee under an exploration licence can or cannot be a specific type of limited liability company having its registered office in a country other than Greenland.

To section 37

To subsection (1)

This subsection contains rules on the duration of mineral exploration licences. It follows from the subsection that exploration licences are granted for a period of five years.

A licence may be extended with a view to exploration by up to five years the first time and then by periods of three years each. See subsection (2) and the relevant explanatory notes.

To subsection (2)

This subsection regulates the extension of exploration licences. Licence periods may be extended based on an assessment of some objective criteria, including an assessment of whether the licensee has fulfilled its obligations concerning the licence and activities under the licence. A licence period may thus be extended even if there are no special and material reasons for such extension.

The subsection provides that the Government of Greenland may extend the licence period of five years under subsection (1) with a view to exploration. Such extension may take place one or more times. The initial extension of the licence period will be for a period of five years. Any subsequent extensions of the licence period will be for one or more periods of three years each. The total licence period of an exploration licence cannot be longer than 22 years. See subsection (4) and the relevant explanatory notes.

To subsection (3)

This subsection provides the authority for the Government of Greenland to set changed licence terms in connection with any extension of the licence period to a total licence period exceeding 10 years.

Thus, the Government of Greenland may not set changed terms at the initial extension of the licence period, see subsection (2), as the initial extension of the licence period cannot lead to a total licence period of more than 10 years. The Government of Greenland may thus set changed licence terms in connection with any other extension of the licence period, see subsection (2), as the licence will then be extended to a total licence period exceeding 10 years.

By way of example, the Government of Greenland may set licence terms on the licensee’s exploration obligations and payment of amounts to the Government of Greenland.

This provision aims at ensuring that based on an assessment in each individual case, an extension may be granted on changed licence terms if there are good reasons for doing so, for example in order to ensure that current exploration activities can be continued with a view to assessing the viability of mineral deposits which have been discovered.

To subsection (4)

This subsection imposes an upper limit on the duration of the total licence period of an exploration licence.

The subsection is especially intended to contribute to ensuring effective exploration by the licensee, including that the licensee will perform the exploration activities in an effective manner in accordance with the considerations mentioned in section 1(2). Effective exploration means, among other things, that the licensee begins to perform the activities under the licence within a reasonable time after it is possible in the post licence grant period, and performs the activities in the licence period in accordance with the licence without unnecessary or long pauses or interruptions. For one thing, this is intended to contribute to avoiding area reservation of a licence area where there is some probability of viable mineral deposits being discovered. This means, among other things, that there must be a good reason for a licensee under a licence not to begin the activities within a reasonable time after this is possible in the post licence grant period.

To subsection (5)

This subsection provides that an exploration licence may terminate at an earlier point in time than on expiry of the licence period under subsections (1)-(4). By way of example, this would be the case if, prior to expiry of the licence period, the Government of Greenland approves that the licensee surrenders the exploration licence to the Government of Greenland.

To section 38

To subsection (1)

This subsection clarifies and details the Government of Greenland's statutory authority to set provisions on the payment of a charge for receiving and processing an application for the grant of an exploration licence under section 34 or an extension of the licence period under an exploration licence under section 37(2) and for the grant of an exploration licence or an extension of the licence period. The subsection further clarifies and details the Government of Greenland's statutory authority to set provisions on the payment of a charge for administrative processing concerning an exploration licence or an extension of the licence period under an

exploration licence.

The Government of Greenland may set provisions on the payment of charges as stated above in an executive order.

Reference is made to section 16 of the Bill and the relevant explanatory notes.

To subsection (2)

This subsection concerns the right to set provisions and terms on the licensee's exploration obligations and payment of amounts to the Government of Greenland if the licensee fails to fulfil its exploration obligations.

The subsection concerns the right to set provisions in an executive order etc. and terms in a licence on the licensee's exploration obligations.

Reference is made to section 16 of the Bill and the relevant explanatory notes.

According to the current standard terms of 23 June 2013 for mineral exploration and prospecting licences, the exploration obligations as at 1 January 2009 amount to the following payment per licence per calendar year:

Years 1-2: DKK 100,000
Years 3-5: DKK 200,000
Years 6-10: DKK 400,000
Years 11-13: DKK 1,128,800
Years 14-16: DKK 2,257,600
Years 17-19: DKK 4,515,200
Years 20-22 DKK 9,030,400

Amount per square kilometre per calendar year:

Years 1-2: DKK 1,000 per square kilometre
Years 3-5: DKK 5,000 per square kilometre
Years 6-10: DKK 10,000 per square kilometre
Years 11-13: DKK 28,220 per square kilometre
Years 14-16: DKK 56,440 per square kilometre
Years 17-19: DKK 112,880 per square kilometre
Years 20-22: DKK 225,760 per square kilometre

To subsection (3)

This subsection clarifies and details the Government of Greenland's authority to set provisions and terms on the licensee's payment of consideration to maintain an exploration licence and activities under the licence, etc.

By way of example, such provisions and terms could be provisions on an annual consideration for the exploration rights or charges relating to certain activities.

Consideration may constitute a part of the potential payments received by the Treasury from a licensee for the latter's right to perform activities under an exploration licence and potential economic and commercial advantages in this regard. When setting the amount of the consideration, regard may be had to a number of factors, including the market conditions prevailing in the mineral sector.

Consideration for the performance of specific activities could, for example, also be an amount which is paid into a fund or pool which goes towards paying for the expenses incurred by the Government of Greenland in connection with cleaning up after mineral activities in cases where the licensees under the Bill fail to comply with their cleaning-up obligations and no security has been provided for those obligations or the security provided is insufficient.

The amount of considerations can only be set with prospective effect, meaning that the setting of considerations in an executive order only applies to licences granted after the publication of the executive order and that considerations set in licences cannot be changed during the licence period set in the licence.

To subsection (4)

This subsection provides the statutory basis for the Government of Greenland, at its discretion, to charge amounts to cover any expenses incurred by the Government of Greenland in connection with case processing and administrative processing under this Bill. By way of example, the subsection covers collection of expenses for case processing, supervision, other administrative processing, business trips and external advisers and consultants, etc.

The amount payable may be collected as a charge or as reimbursement of expenses.

The amount payable for administrative processing may, for example, be collected on the basis of an hourly rate for the hours currently spent on case processing and other administrative processing, including the grant of licences and approvals, etc.

Any expense can be collected as a charge or as reimbursement of expenses to the extent that the payment generally corresponds to the expenses incurred by the Government of Greenland for case processing and administrative processing. Thus, it is not the intention that, on the basis of the authority provided in this subsection, expenses to be collected as charges or as reimbursement of expenses beyond the expenses which the Government of Greenland has generally incurred or is generally expected to spend on case processing and administrative processing.

To section 39

To subsection (1)

This subsection concerns the licensee's reporting to the authorities.

Under the subsection, the licensee under an exploration licence must generally submit to the Government of Greenland reports on the activities performed by the licensee under the licence, copies of the results obtained as well as samples to the extent that provisions or terms to this effect are set by the Government of Greenland, see subsection (6) and the relevant explanatory notes.

To subsection (2)

This subsection provides that the licensee's reports, exploration results, data, samples and interpretations, conclusions and recommendations, etc. submitted to the Government of Greenland are confidential for a period of five years from the deadline for submission to the Government of Greenland.

It is necessary to set rules on confidentiality as the information mentioned above may constitute trade or business secrets which shall remain and be treated as confidential for a reasonable confidentiality period. If the Government of Greenland is or may be required to disclose such information etc., including in connection with an access request, this could give others an improper advantage.

The provision is in accordance with the Greenland Parliament Act on Access to Public Administration Files (*landstingslov om offentlighed i forvaltningen*). It follows from section 3(1) of the Act that the Government of Greenland may set rules to the effect that specified public authorities, fields of responsibility or document types for which the provisions in sections 7 - 14 generally allow refusal of access requests must be exempted from the Act.

As a general rule, the information under subsection (1) will fall within sections 12 - 14 of the

Greenland Parliament Act on Access to Public Administration Files. Subsection (2) will thus ensure, together with the above-mentioned provisions of the Greenland Parliament Act on Access to Public Administration Files, that information exchanged in the Government of Greenland and submitted to committees of the Greenland Parliament is exempted from access.

Under the subsection, the confidentiality period is five years after the deadline for submission to the Government of Greenland for the entire licence period, but see subsections (3) and (4).

The confidentiality will end when the licence terminates. After the termination of the licence, the licensee is no longer owed confidentiality, and the Government of Greenland needs to be able to publish all of the material submitted to ensure equal treatment of all potential applicants in connection with any licences being made available for the area under section 59(2).

On expiry of the confidentiality period, the licensee's reports, exploration results, data, samples and interpretations, conclusions and recommendations, etc. will belong to the licensee as well as the Greenland Self-Government, see subsection (5). Reference is made to the provision in subsection (5) and the relevant explanatory notes.

To subsection (3)

This subsection provides that during the confidentiality period, the Government of Greenland may publish general information about the confidential information, reports, exploration results, data, samples and interpretations, etc.

Under the subsection, before any such general information is published, the Government of Greenland must send the information to the licensee and inform the licensee that it may submit its comments and any reasoned objection to the publication of all or some of the information within a reasonable time-limit of no less than 14 calendar days. If, before the expiry of the time-limit, the licensee submits an objection to the publication of all or some of the information, the Government of Greenland will not publish the relevant information if the licensee's interest in confidentiality is deemed to override the Government of Greenland's interest in publication of the information in question.

By way of example, the Government of Greenland's interest in publishing information of a general nature may be its interest in safeguarding public health, a statutory duty to publish certain information or in connection with the marketing of the geology of Greenland. When determining whether general information under this subsection can be published although an objection has been received from the licensee, regard may be had to factors such as any commercial interest of the licensee in maintaining the confidentiality of the information, whether the publication of the information would be contrary to the rules of a stock exchange

where the licensee is registered, and whether the individual licensee is identifiable in spite of the general nature of the information.

To subsection (4)

This subsection is intended to provide the basis for the Government of Greenland's publication at any time of environmental data and environmental reports that are deemed to be of general public interest. This may in particular be the case where citizens residing or having business interests in the immediate vicinity of mineral activities may be affected by the potential environmental impact of the activities.

To subsection (5)

This subsection provides that when the confidentiality period expires under subsection (2), the submitted reports, exploration results, data, samples and interpretations, etc. belong to the licensee as well as the Greenland Self-Government, and the licensee and the Greenland Self-Government will both be free to use them.

The ownership rights of the Greenland Self-Government only include material that is attributable to mineral activities in Greenland. By way of example, the Greenland Self-Government will have no rights in software and methods used to produce the material.

In practice, licences under the Mineral Resources Act often contain similar terms. The same is expected to be the case for licences under the Bill. However, it is deemed to be more appropriate for the provision to be expressly stated in the Bill.

The current standard terms of 23 June 2013 for mineral exploration and prospecting licences also contain similar provisions.

To subsection (6)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the matters mentioned in subsections (1) - (5). An example of this would be provisions or terms on the content, format and frequency of the reports, including on their submission by specific time-limits, in connection with the performance of specific activities and the occurrence of specific events or conditions.

Another example would be provisions or terms on the possibility for the Government of Greenland to publish general information about specific activities, results, events and matters.

The Government of Greenland may set specific rules in this regard in executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals. Reference is made to section 16 of the Bill and the relevant explanatory notes.

To section 40

This section provides the authority for the Government of Greenland to set provisions and terms on all relevant matters concerning the grant of a mineral exploration licence and matters in relation thereto.

The section must be construed and applied in accordance with section 34 of the Bill concerning the grant of an exploration licence on specific terms.

Among other things, the Government of Greenland may set provisions in executive orders, model licences, application procedures, other procedures and guidelines concerning exploration licences set under the Bill. The Government of Greenland may also set terms in standard terms for exploration licences and approvals concerning exploration licences and terms in decisions made under the Bill. Reference is made to section 16 of the Bill and the relevant explanatory notes which define what is meant by "provisions and terms" for the purposes of the Bill.

The exploration licence document will state a number of formalities such as licence type, licence area, licence period and identification of licensee.

In addition, a number of other terms will apply which may be set in executive orders, model licences, application procedures, other procedures and guidelines concerning exploration licences or in the licence document itself. By way of example, this may be requirements to the licensee's organisation, activities comprised by the licence, the circumstances under which the licence may be terminated, the licensee's obligations after termination of the licence, any obligations of the licensee with regard to performing exploration activities in the licence period, requirements to safety, environmental protection and social sustainability, the licensee's obligation under certain circumstances to prepare environmental impact assessments and reports thereon (EIA reports), social impact assessments (SIAs) and reports thereon (SIA reports) and enter into impact benefit agreements (IBAs), submission and approval of activity plans, provision of security for the licensee's obligations under the Bill, the licensee's insurance matters, the licensee's liability in damages, the licensee's reporting on exploration and submission to the Government of Greenland of data and samples, etc., confidentiality, the licensee's payment of charges to the Government of Greenland and the licensee's use of local workers and suppliers.

To section 41

To subsection (1)

This subsection confers a right on licensees under an exploration licence to be granted an exploitation licence for the viable deposit(s) discovered on specified and relevant terms.

The subsection entails that the licensee must be able to substantiate and delineate a viable mineral deposit and thus in general prove on a balance of probabilities that the licensee will be able to exploit the minerals.

The licensee must investigate, assess and in a report state and substantiate to the Government of Greenland whether a mineral deposit has been substantiated and delineated and whether a mineral deposit is viable.

It only follows from the Bill that a licensee must substantiate and delineate a viable deposit. Consequently, the Government of Greenland does not require that the licensee submits a feasibility study or a report including information on the possibility of obtaining an economic gain from the exploitation of the minerals.

It follows from section 1(2) and section 118 that activities comprised by the Bill must be performed, among other things, in accordance with acknowledged good international practices under similar conditions.

This means, for one thing, that a licensee must use internationally acknowledged methods and standards for examining and assessing whether a mineral deposit has been substantiated and delineated.

Furthermore, a licensee must apply good and internationally acknowledged reporting standards for the mineral industry when preparing and submitting reports to the Government of Greenland on the substantiation and delineation of mineral deposits. Such reporting standards are often referred to as mineral reporting standards. They provide general provisions on how licensees must report on their exploration results, reserves and resources to investors, potential investors and their advisers.

The condition that a deposit must be substantiated in order for a licensee to be entitled to be granted an exploitation licence will be met if evidence of an "indicated resource" has been provided according to the Australian reporting standard known as the JORC Code, the Canadian reporting standard known as 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 known

as the SAMREC Code or the pan-European reporting standard known as the PERC Reporting Standard.

The evidence provided of an "indicated resource" must be approved by the Government of Greenland. The Government of Greenland is entitled at any time to make its own assessment of the material provided, including also to seek advice and assistance from external parties. In this connection, the Government of Greenland is not bound by the conclusions of the evidence provided by the licensee, regardless of whether the evidence is prepared and signed by an authorised person.

One of the purposes of this provision is to avoid that viable deposits discovered are not exploited and to promote exploration activities.

As mentioned above, it follows from the provision that a licensee is entitled to be granted an exploitation licence when the licensee has substantiated the existence of a viable mineral deposit and also met the other terms of the exploration licence. In the Government of Greenland's opinion, such right is essential to a licensee under an exploration licence and companies can only be expected to a limited extent to invest in exploration activities in Greenland if they are not secured a certain gain from such activities in the form of a conditional right to exploit a deposit that has been discovered.

An exploitation licence does not entitle the licensee to perform exploitation activities. Any and all activities performed under an exploitation licence are subject to approval from the Government of Greenland.

To subsection (2)

This subsection provides that it is the Government of Greenland who will decide whether the conditions for claiming an exploitation licence are met.

The Government of Greenland is entitled at any time to make its own assessment of the material provided, including also to seek advice and assistance from external parties. In this connection, the Government of Greenland is not bound by the conclusions of the evidence provided by the licensee, regardless of whether the evidence is prepared and signed by an authorised person.

To section 42

To subsection (1)

This section concerns a right for the licensee under a small-scale mineral exploration or exploitation licence to be granted an exploitation licence for the minerals under the provisions of the Bill and other provisions and terms in this regard if the licensee has substantiated and delineated a viable mineral deposit which the licensee intends to exploit, and has performed all of its obligations in relation to the small-scale licence and activities under the licence.

See the comments on viable deposits in the explanatory notes to section 41(1).

To subsection (2)

This subsection provides that it is the Government of Greenland who will decide whether the conditions for claiming an exploitation licence are met.

The Government of Greenland is entitled at any time to make its own assessment of the material provided, including also to seek advice and assistance from external parties. In this connection, the Government of Greenland is not bound by the conclusions of the evidence provided by the licensee, regardless of whether the evidence is prepared and signed by an authorised person.

To section 43

To subsection (1)

This subsection provides that the Government of Greenland may grant a licence for exploitation of one or more minerals for a specified area and on specific terms.

An exploitation licence will be granted for the minerals of which the licensee has substantiated and delineated a viable deposit. See subsections (4) and (5) and the relevant explanatory notes.

Mineral exploitation licences can only be granted as exclusive licences. This means that two or more licensees will not be granted exploitation licences which cover the same geographical area in whole or in part. Furthermore, it follows from section 50(3) that in the licence area of an exploitation licence, only the licensee under the licence and no-one else may perform activities under mineral prospecting, exploration or exploitation licences under the Bill. Reference is made to section 50 of the Bill and the relevant explanatory notes on other

activities in a licence area.

Exploitation activities comprised by an exploitation licence include all activities which are performed by or on behalf of the licensee under the licence and matters in relation thereto. This includes, without limitation, establishment and operation of buildings, facilities, installations and necessary infrastructure, including roads and ports, etc. It also includes, without limitation, sorting of minerals and by-products, processing of minerals and discontinuation of exploitation activities, including clean-up and restoration of the licence area and other affected areas.

It follows from the provision that an exploitation licence is granted for a specified area and on specified terms. The licence must thus, among other things, specify a licence area and the minerals it covers. The licence must also set out the terms governing other relevant matters in connection with the exploitation activities.

The Government of Greenland may set terms in exploitation licences on all relevant matters and considerations. The terms must be set in accordance with the Bill and its purpose. Reference is made to sections 1 and 56 of the Bill on the setting of terms in an exploitation licence and the relevant explanatory notes.

To subsection (2)

This subsection clarifies and details the possibility of granting exclusivity in mineral exploitation to a licensee under an exploration licence or a small-scale licence.

The grant of an exploitation licence is subject to the condition that the licensee under an exploration licence or a small-scale licence meets the conditions in sections 41-42 of the Bill. This subsection must thus be applied and construed in accordance with sections 41-42.

To subsection (3)

This subsection provides that a company which is not the licensee under an exploration licence or a small-scale licence may be granted an exploitation licence and thus take over the licensee’s exploitation rights if a viable mineral deposit has been substantiated and the company also fulfils the terms set out in the licensee’s exploration licence or small-scale licence.

Under this subsection, a licensee under the exploration licence or small-scale licence may transfer the exploitation rights concerning the licensee’s substantiated and delineated viable mineral deposits to another company to the extent that the company fulfils the requirements to a licensee under an exploitation licence.

Consequently, the grant of an exploitation licence to a company which is not the licensee is subject to the condition that the company meets the conditions in sections 45-46 and 66-67 of the Bill. This subsection must be applied and construed in accordance with the provisions mentioned.

Reference is made to the provisions in sections 45-46 and 66-67 and the relevant explanatory notes.

Thus, the subsection generally protects the same interests as the provision in section 69 of the Bill concerning direct or indirect transfer or assignment of a licence.

To subsection (4)

This subsection allows exploitation licences to be granted in cases where a licensee under an exploration licence or a small-scale licence cannot or does not want to exercise a right to be granted an exploitation licence for a substantiated and delineated viable deposit under sections 41-42.

An example of this would be a situation where a licensee under a mineral exploration licence is not entitled to or does not apply for the grant of a subsequent mineral exploitation licence, see sections 41 and 43. The reason for this may be, for example, that the licensee has tried to make other parties invest in or grant loans to the licensee to finance the completion of an exploitation project under an exploitation licence, but in vain. The Government of Greenland will then be entitled to grant an exploitation licence for the area and the mineral deposit according to one of the procedures mentioned in section 59(1)-(3) of the Bill.

Another example may be a situation where a previous exploitation licence has terminated, including by reason of expiry, lapse or revocation, and the licence area still contains a part of a substantiated and delineated viable mineral deposit.

The Government of Greenland will then be entitled to grant a new exploitation licence for the area and the mineral deposit according to one of the procedures mentioned in section 59(1)-(3) of the Bill.

To subsection (5)

This subsection provides that licensees under exploitation licences are only entitled to exploit minerals which are included in the substantiated, delineated and viable deposit(s).

Licensees under exploitation licences are entitled to perform exploration activities in the

licence area under section 50(1). If, in this connection, a licensee substantiates and delineates a viable mineral deposit which is not comprised by the exploitation licence, the licensee will have a right to be granted a licence to exploit the deposit, in the same way as would have been the case if the deposit had been substantiated and delineated under an exploration licence. A licence to explore for minerals not comprised by the original exploitation licence may be granted as an addition to the original licence.

The right to an addition to the original licence is subject to the same conditions as the right to have an exploitation licence granted on the basis of an exploration licence. This means that the deposit must be documented according to international standards and that the licensee must have fulfilled all obligations concerning the licence etc., see section 41(1) in its entirety and the relevant explanatory notes. Furthermore, it will be for the Government of Greenland to decide whether these conditions are met, see section 41(2) and the relevant explanatory notes.

Whether new plans and reports will have to be prepared as a result of an addition being made to the licence or whether it will be sufficient to update existing documents will be based on a discretionary assessment and will depend on the scale and nature of any new or extended activities arising from the exploitation of the added minerals. Such assessment is at the discretion of the Government of Greenland.

The Government of Greenland is entitled to require sufficient information on the project and the plans for their execution in order to be able to assess the project as a whole, which may require new mining and closure plans, see section 77 and sections 80-82 below. However, if only a few adjustments and extensions are involved, an addendum to the original plans will suffice. It will therefore not be necessary to submit plans for the matters set out in the original plans, but the addenda will at least have to address the issue of provision of additional security, if relevant. If the added minerals are by-products from the exploitation of the minerals originally included, updates to the plans already approved will usually suffice.

As regards social impact assessment reports (SIA reports) and impact benefit agreements under Parts 16 and 18, new reports and agreements will rarely be necessary, as existing reports and agreements can usually be applied to any extensions. However, in exceptional cases where the exploitation of the new minerals will lead to substantial changes in the basis of the reports/agreements, it may be necessary to prepare new reports and conclude new agreements, especially where substantial processing is planned in Greenland.

As regards environmental impact assessment reports (EIA reports) under Part 15, it will also be necessary in some cases to prepare a completely new report. This may be the case where the exploitation of the new minerals entails a risk of further contamination. However, here too, an assessment of the actual scale will need to be made in order to determine whether a

new report should be required. Or whether an addendum to the original assessment or an EMA report would be sufficient.

Where the addition of more minerals to the licence does not justify changes or addenda to SIA reports, impact benefit agreements and/or EIA reports, a statement from the licensee explaining why the addition should not result in updates or addenda will be sufficient.

To section 44

To subsection (1)

It follows from this subsection that an applicant or a licensee seeking the grant of an exploitation licence must prepare a project terms of reference and submit it to the Government of Greenland.

The project is notified to the Government of Greenland by submission of a project terms of reference (a description of the exploitation project) to the Government of Greenland. The notification is intended to initiate a process which is intended to ensure early involvement of the general public in the development of a mineral project (the initial concept phase). The notification of the terms of reference by submission to the Government of Greenland is the first step of an applicant or a licensee towards a dialogue with the general public.

A licensee must prepare the terms of reference and notify the Government of Greenland by submitting the document to the Government of Greenland, regardless of whether the project may be assumed to have effects which would require that an environmental impact assessment (EIA) under section 100 and/or a social impact assessment (SIA) is prepared in connection with the project under section 103.

To subsection (2)

This subsection provides that the terms of reference under subsection (1) must go out for public consultation for a period of at least 35 days before an exploitation licence can be granted.

Public consultation is the first opportunity for the public to gain an insight into and state their proposals and concerns in relation to an applicant’s or a licensee’s plans to develop the presented proposal into a coming mineral project. Consultation responses to the terms of reference are important in order to ensure that the general public may contribute to designing the project at an early stage of the project phase so that any objections to or comments on the terms of reference may be considered in the work involved in developing the mineral project going forward.

The Government of Greenland will take relevant consultation responses into account when setting the terms of an exploitation licence granted.

The subsection further provides that if the applicant or the licensee is required to carry out a public pre-consultation on a project description concerning environmental or social aspects under section 106, such pre-consultation(s) must to the extent possible be carried out in connection with the consultation on the terms of reference. Thus, it follows from the provision that the consultation on the terms of reference and the pre-consultations on the project descriptions must be carried out at the same time, where possible.

However, cases may arise where it becomes clear after a consultation process has been carried out under this provision that a public pre-consultation on a project description concerning environmental or social aspects under section 106 must be carried out. In such case, the pre-consultation(s) in question must be carried out subsequently.

To subsection (3)

It follows from this subsection that a new consultation process must be carried out if an exploitation licence has not been granted within 24 months. The subsection is intended to ensure that the terms of reference and the consultation will not become outdated and obsolete before an exploitation licence is granted.

To subsection (4)

This subsection provides the authority to grant exemptions from the time-limit in subsection (3) in cases where it takes longer than expected for the exploitation licence to be granted. The subsection is primarily intended to safeguard licensees in cases where the Government of Greenland’s processing of an application results in the time-limit not being met.

To subsection (5)

This subsection establishes that the Government of Greenland may set specific provisions and terms on the contents of the terms of reference of a project and on the carrying out of a consultation process.

An example of such specific provisions and terms would be provisions or terms as to which matters the terms of references are to describe.

To section 45

To subsection (1)

This subsection establishes that a licensee under an exploitation licence can only be a public limited company. The public limited company must be registered as a public limited company and have its registered office in Greenland.

Any other corporate forms than a public limited company cannot be granted an exploitation licence under the Bill. One of the reasons is that activities concerning exploitation of minerals are generally far more extensive and are generally performed over a longer period of time than activities concerning prospecting and mineral exploration and scientific surveys concerning matters of relevance thereto.

Moreover, exploitation licences can lead to far more extensive and material obligations. Therefore, stricter requirements must be imposed with regard to the licensee's economic and financial capability (financial capacity). In addition, more extensive requirements must be imposed on the licensee's bookkeeping, accounts and annual reports.

The requirement concerning registered office in Greenland means that the company must be registered and operated as an enterprise having its registered office in Greenland, in accordance with the legislation to this effect for Greenland.

The requirement concerning registered office in Greenland is intended to ensure, among other things, that through its business operations, the company has a de facto connection to Greenland and that the taxes payable on revenue from mineral activities in Greenland accrue to the Greenland Self-Government. This is in accordance with the definition of revenue in section 7 of the Act on Greenland Self-Government.

To subsection (2)

The requirement in this subsection that the de facto head office of the public limited company must be situated in Greenland is intended to ensure, among other things, that through its business operations, the company has a de facto connection to Greenland and that the taxes payable on revenue from mineral activities in Greenland accrue to the Greenland Self-Government. This is in accordance with the definition of revenue in section 7 of the Act on Greenland Self-Government.

The subsection must be construed and applied in the context of the requirement concerning registered office in Greenland, see subsection (1).

To subsection (3)

Under this subsection, the Government of Greenland may approve that for a period of time a licensee does not comply with the requirement in subsection (2) for the licensee to have in Greenland its de facto head office from which the public limited company is managed. The approval can be granted for a period of up to six months after the grant of an exploitation licence. Such approval shall only be granted to a licensee who has submitted a plan for how it intends, within a period of no more than six months, to establish in Greenland its de facto head office from which the public limited company is managed.

The subsection is intended to authorise the Government of Greenland to grant to foreign companies which, for example, have performed exploration activities in Greenland a reasonable period in which to establish the de facto head office of the licensee company in Greenland after the grant of an exploitation licence.

To section 46

To subsection (1)

This subsection provides that public limited companies which are licensees under exploitation licences may only perform and previously have performed activities and operations under licences granted under the Bill. For purposes of the Bill, licences granted under the Bill also include licences concerning minerals or hydrocarbons granted under the Mineral Resources Act before or after the entry into force of the Bill.

A public limited company cannot be a licensee under an exploitation licence if the public limited company has previously performed other activities or other operations than activities and operations under licences under the Bill or licences under the Mineral Resources Act.

Nor can a public limited company be a licensee under an exploitation licence if the public limited company as the surviving company is combined (merged) with another public limited company as the discontinuing company, and the other public limited company has previously performed other activities or other operations than activities and operations under licences under the Bill or licences under the Mineral Resources Act.

One of the purposes of the provision is to ensure that public limited companies which only perform and previously have performed activities and operations under licences under the Bill and the Mineral Resources Act are separated and segregated from other public limited companies which perform or have previously performed other activities and operations in whole or in part. One of the purposes of such separation and segregation is to ensure similar

separation and segregation between the two types of public limited companies' commercial, economic and tax-related matters and matters concerning payment of royalties to the Government of Greenland under the exploitation licences.

"*A licence for exploitation of mineral resources may only be granted to public limited companies. The company may only perform activities covered by licences granted under this Act and must not be taxed jointly with other companies, unless joint taxation is compulsory."*

A requirement for such separation and segregation follows from an interpretation of section 9(1)(i) of Act no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government. It follows from an interpretation of section 9(1)(i) and the purpose of the provision that the Bill must provide that a public limited company which is a licensee under an exploitation licence may only perform and previously have performed activities and operations under licences granted under the Bill and the Mineral Resources Act.

To subsection (2)

This subsection is based on and implements the corresponding provision in section 9(1)(i) of Act no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government and the explanatory notes to the Bill on the Greenland Self-Government (*the Self-Government Act*). In section 5.3.5.2 of the general explanatory notes to the Self-Government Act concerning tax revenue, the following is stated:

"*As companies are concerned, it must, as far as has been the case until now, be ensured when exploitation licences are granted that revenue relating to exploitation activities can be identified and kept apart for tax purposes from revenue and expenses relating to other activities. The Self-Government must also ensure this under a new mineral resource system where the responsibility for the mineral resource area has transferred to the Self-Government.*

This means that in connection with the granting or alteration of exploitation licences, it must be ensured that the licensee is not granted exemption from taxation as mentioned in section 3(3) of the Act on Income Tax, unless the Bureau of Minerals and Petroleum demonstrates that the licence involves fees which are at least as onerous and which are included in full in the revenue distribution, that the licensee only carries out activities under the licence and other activities in accordance with the Mineral Resources Act, that the licensee does not invest in other companies or legal persons, that the licensee cannot be taxed jointly with other companies in Greenland or Denmark, unless joint taxation is compulsory, that licensees in domestic groups of companies are subject to the same capitalisation requirements as licensees in foreign groups of companies, that generally the licensee trades at arm's length prices and on arm's length terms, that the licensee's organisational structure, including the

licensee's relation to a parent company, cannot be changed without approval from the Bureau of Minerals and Petroleum, and that the licensee's registered office cannot be changed without approval from the Bureau of Minerals and Petroleum."

In the explanatory notes to section 9(1)(i) of Bill no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government the following is stated, amongst others, with regard to the corresponding provision in section 7(3) of the former Danish Mineral Resources Act for Greenland from 1998:

"*With the amendment of section 7(3), it is now possible for companies covered by compulsory joint taxation to obtain an exploitation licence. It is assumed that the calculation of revenue covered by the revenue definition in section 7 of the Greenland Self-Government Bill, which is introduced simultaneously with this Bill, will be corrected to adjust for the effects of joint taxation so that only income etc. concerning the exploitation activities will be included.*"

In connection with its administrative processing under the Bill, including when processing an application for the grant or approval of the transfer of an exploitation licence, the Government of Greenland may take into account the above-mentioned provisions, explanatory notes and assumptions which form part of the self-government agreement and the subsequently adopted Act on Greenland Self-Government and Act on Various Matters in connection with the Greenland Self-Government.

To subsection (3)

This subsection is based on and implements the corresponding provision in section 9(1)(i) of Act no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government. In the explanatory notes to section 9(1)(i) of Bill no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government, among other matters, the following is stated with regard to the provision:

"*Furthermore, the company must undertake not to be more thinly capitalised than the group of companies to which it belongs. This implies that the debt to equity ratio of the company cannot exceed the debt to equity ratio of the group as such, regardless of whether the lender is a group company or not and whether the lender is domestic or foreign. However, the company's loan capital may always exceed its equity by a ratio of up to 2:1, corresponding to the threshold of the current Greenland tax rules on thin capitalisation of foreign held companies. The effect is thus only that domestic groups of companies fall within the same capitalisation requirements as foreign groups of companies. This contributes to ensuring that revenue is not moved arbitrarily to another foreign company or another Greenland company, which may erode both the corporate tax revenue and the basis of the revenue definition or only the latter. Moreover, the rules of tax legislation on thin capitalisation apply unchanged*

to the company."

In connection with its administrative processing under the Bill, including when processing an application for the grant or approval of the transfer of an exploitation licence, the Government of Greenland may take into account the above-mentioned provisions, explanatory notes and assumptions which form part of the self-government agreement and the subsequently adopted Act on Greenland Self-Government and Act on Various Matters in connection with the Greenland Self-Government.

To subsection (4)

This subsection is based on and implements the corresponding provision in section 9(1)(i) of Act no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government. In the explanatory notes to section 9(1)(i) of Bill no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government, the following is stated with regard to the provision:

"*The companies in question must undertake in general, i.e. not only when trading with related parties, to trade at arm's length prices and on arm's length terms, i.e. at the same prices and on the same terms as those used in transactions between independent parties in accordance with the OECD transfer pricing guidelines.*

This contributes to ensuring that there is no arbitrary transfer of the licensee's revenue to companies whose revenue does not fall within the scope of the revenue definition in section 7 of the Bill on Greenland Self-Government."

In connection with its administrative processing under the Bill, including when processing a licensee's activities under an exploitation licence and transactions in this regard, the Government of Greenland may take into account the above-mentioned provisions, explanatory notes and assumptions which form part of the self-government agreement and the subsequently adopted Act on Greenland Self-Government and Act on Various Matters in connection with the Greenland Self-Government.

To section 47

To subsection (1)

This subsection regulates the duration of mineral exploitation licences. The subsection specifies that mineral exploitation licences are granted for a period of up to 30 years. In practice, the licence period is set in the licence document.

An example of special circumstances that would support the grant of a licence period of less than 30 years may be if the licensee itself is planning to perform exploitation activities for less than 30 years, for example if the licensee believes that it can perform the mining plan and the activities under the exploitation licence within a period of 15 years. In such case, the Government of Greenland may grant an exploitation licence for a period of 15 years. In such case, the Government of Greenland may also grant an exploitation licence for a period of 15 years plus some additional years if, based on a reasonable assessment, there is doubt as to the licensee being able to perform the mining plan and the activities under the exploitation licence within a period of 15 years.

In any case, the Government of Greenland may grant a licence period of less than 30 years to the extent that, based on an assessment of all relevant information, it may be assumed that a licensee is able to perform the mining plan and the activities under the exploitation licence within a period of less than 30 years.

The Government of Greenland may extend the licence period one or more times in accordance with the provisions of subsections (2) - (5).

The total licence period of an exploitation licence cannot be longer than 50 years, see subsection (5).

To subsection (2)

This subsection provides that, with regard to an exploitation licence, the period mentioned in subsection (1) may be extended one or more times by the Government of Greenland. According to the subsection, the licence period may only be extended for a period of up to 20 years each, but see subsection (5).

When an extension of the licence period is granted, discretion may be exercised with regard to the duration of the extension period, see the wording of “up to 20 years”. When exercising such discretion, weight may be given to factors such as how long does it take to optimise exploitation of a substantiated and delineated viable deposit, how much time does the licensee need in order to recover any additional investments made and the social impact of the project during the extension period.

If activities which are planned in the extended licence period may be assumed to have a potential significant environmental and/or social impact which has not been taken into account in an existing environmental impact assessment and a report thereon, see section 100 of the Bill, and/or a social impact assessment and a report thereon, see section 103 of the Bill, the licensee will have to make new assessments thereof and reports thereon, see sections 100 and 103 of the Bill.

To subsection (3)

This subsection ensures, subject to certain conditions, that the licensee has a right to extend the licence period.

It is important for a licensee to make arrangements in reliance on the duration of the licence period, particularly with a view to raising capital for mining projects, and in relation to the planning of the mining project as such as well as to optimise the exploitation of a mineral deposit. It is therefore important that the licensee is given such right.

The conditions for obtaining the right to extend the licence period correspond to the conditions for obtaining the right to be granted an exploitation licence based on an exploration licence. The licensee must have complied with Greenland laws and the terms to which it has been subject so far, and the licensee must also substantiate and delineate a viable deposit which may warrant the grant of an extension of the licence period.

To subsection (4)

This subsection provides the authority for the Government of Greenland to set changed licence terms in connection with an extension of the licence period to a total licence period exceeding 40 years.

By way of example, this could be changed terms about the licensee's obligations under the licence or the activity plans or about gradual reduction of the licence area to the extent that it is not being used in connection with the performance of mineral exploitation or other activities under the exploitation licence.

To subsection (5)

This subsection provides that the licence period of a mineral exploitation licence cannot be longer than 50 years.

For example, the subsection is intended to contribute to ensuring effective mineral exploitation by the licensee, including that the licensee will perform the exploitation activities in an effective manner in accordance with the considerations mentioned in section 1. Effective exploitation means, among other things, that the licensee begins to perform the activities under the exploitation licence within a reasonable time after it is possible in the period after the granting of the licence, and performs the activities in the licence period in accordance with the mining plan and the activities under the exploitation licence without unnecessary or long pauses or interruptions. For one thing, this is intended to contribute to avoiding area

reservation of a licence area where one or more viable mineral deposits have been substantiated and delineated.

To subsection (6)

This subsection provides that an exploitation licence may terminate at an earlier point in time than on expiry of the licence period under subsections (1)-(5). By way of example, this would be the case if, prior to expiry of the licence period, the Government of Greenland approves that the licensee surrenders the exploitation licence to the Government of Greenland.

To section 48

To subsection (1)

This subsection provides that an exploitation licence is granted for a licence area set by the Government of Greenland.

In a situation covered by section 43(2), the Government of Greenland may, for example, set a licence area under an exploitation licence based on the area in which, under a prior exploration licence or small-scale licence, the licensee has substantiated and delineated a viable mineral deposit which the licensee intends to exploit.

The grant of an exploitation licence is subject to the condition that the licensee has substantiated and delineated one or more viable mineral deposits which the licensee intends to exploit. Reference is made to sections 41 and 42 of the Bill and the relevant explanatory notes.

The licence area under an exploitation licence may include the area(s) in which the licensee has substantiated and delineated a viable mineral deposit, see sections 41-42, one or more additional areas in which the licensee has provided evidence of an "inferred resource" according to the Australian reporting standard known as the JORC Code, the Canadian reporting standard known as 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 known as the SAMREC Code or the pan-European reporting standard known as the PERC Reporting Standard and one or more additional areas for use in connection with the performance of the exploitation activities and other activities under the licence. The additional areas may also be used for buildings, facilities, installations, storage, sites, roads, ports and other infrastructure.

Whether one or more areas in which the licensee has provided evidence of an "inferred resource" can be included in the licence area in addition to the area in which the licensee has

substantiated and delineated a viable mineral deposit, see sections 41-42, will depend on the Government of Greenland's decision. Weight will be given to the connection between the deposits in question and the deposit that has formed the basis of the grant of the licence, see sections 41-42. In this context, regard may be had to, among other matters, the situation of the deposits in relation to the deposit that has formed the basis of the grant of the licence. If the deposits in question are not situated in immediate continuation of the deposit that has formed the basis of the grant of the licence, weight may be given to the distance to the deposit that has formed the basis of the grant of the licence, the extent to which they share the same mineralisation, geological structure and composition, and whether the processing facilities, infrastructure, etc. available for the deposit that has formed the basis of the grant of the licence can be used in the exploitation of the deposits situated in areas in which the licensee has provided evidence of an "inferred resource". Additional areas in which the licensee has provided evidence of an "inferred resource" can be included in the licence area only in special circumstances to the extent that the size of those areas exceeds the area in which the licensee has substantiated and delineated a viable mineral deposit, see sections 41-42.

When an exploitation licence is granted, a licence area may cover a gross area which, in addition to the area(s) in which the licensee under an exploration licence has provided evidence of "indicated resources" and "inferred resources" as described above, includes several potential sites for facilities and infrastructure.

Thus, if the licence area includes areas which are not necessary to perform a mining plan, see section 77, the licence area will be reduced after the Government of Greenland's approval of the mining plan, see section 77(2), so that, in addition to the area(s) in which the licensee under an exploration licence has provided evidence of "indicated resources" or "inferred resources", the licence area will only include the areas used for facilities and infrastructure.

To subsection (2)

This subsection is intended to provide an opportunity for a licensee under one or more exploitation licences and one or more exploration licences to extend the licence area under an exploitation licence to include additional areas in which the licensee under an exploration licence has substantiated and delineated a viable mineral deposit which the licensee intends to exploit, without a new licence being granted.

It follows from the provision that the Government of Greenland may set the same terms in an addendum to a licence on licence area extension as in the licence document itself.

When deciding whether to issue an addendum to a licence, the Government of Greenland may have regard to the connection between the deposit which forms the basis of the exploitation licence and the new substantiated and delineated viable deposit. If the new deposit is directly

adjacent to the existing deposit or if it contains the same minerals, this will weigh in favour of issuing an addendum.

Furthermore, it is noted that the performance of activities under the addendum may be subject to the preparation of an EIA report, see Part 15 of the Bill, and/or the preparation of an SIA report, see Part 16 of the Bill, if the activities are assumed to have potential significant environmental or social impacts.

To section 49

To subsection (1)

This subsection grants an authorisation and imposes an obligation for the Government of Greenland to set terms to the effect that the grant and maintenance of an exploitation licence is conditional on the licensee having submitted within a reasonable time-limit to the Government of Greenland a comprehensive mining plan and closure plan in accordance with sections 77 and 80 and other provisions and terms thereon.

This subsection clarifies and details that the grant and maintenance of an exploitation licence is conditional on the licensee having submitted within a reasonable time-limit its plans in accordance with sections 77 and 80 and other provisions and terms thereon.

Reference is made to those provisions and the relevant explanatory notes.

The subsection further provides that the time-limit for the licensee's submission of the plans may not be more than four years after the grant of the exploitation licence.

To subsection (2)

This subsection is intended to contribute to ensuring that the licensee submits a comprehensive mining plan and closure plan to the Government of Greenland within the specified time-limit. Reference is made to the provision in subsection (1) and the relevant explanatory notes.

To subsection (3)

This subsection specifies that the Government of Greenland is authorised in a mineral exploitation licence to set terms on specified time-limits for certain matters concerning the licence or activities under the licence.

It follows from section 43 of the Bill that the Government of Greenland may grant mineral

exploitation licences subject to specified terms. Under this subsection, the Government of Greenland may generally set all relevant terms concerning exploitation licences and all activities under the licences, including time-limits for certain matters concerning the licence or activities under the licence. The setting of licence terms must be in accordance with the purposes of the Bill under section 1 and other relevant provisions. The proposed subsection is thus a clarification of the authority (right) of the Government of Greenland to set terms on specified time-limits for certain matters concerning a mineral exploitation licence or activities under the licence.

By way of example, the Government of Greenland may set time-limits for the licensee's submission of an updated mining plan under section 77 of the Bill, a closure plan under section 80 of the Bill or plans for other matters and activities under sections 120-121 of the Bill.

The Government of Greenland may also set time-limits, for example, for the licensee's conclusion of an impact benefit agreement and other socioeconomic matters.

Other examples would be time-limits for the licensee's establishment of facilities or parts thereof, etc. for exploitation of minerals, provision of security for closure costs or commencement of mineral exploitation.

The subsection also specifies that the Government of Greenland may also set licence terms on or decide that a licence will lapse or may be revoked for failure to observe a time-limit or an extended time-limit.

To section 50

To subsection (1)

This subsection provides that a licensee under an exploitation licence may explore for minerals on the same terms as a licensee under an exploration licence in the licence area for the exploitation licence. However, the licensee is not required to do so.

The background to this subsection is, among other things, that a licensee under an exploitation licence may in practice often need to perform and will often perform exploration or similar activities in order to analyse and assess potential new viable mineral deposits in the licence area.

To subsection (2)

This subsection imposes an obligation on the licensee under an exploitation licence to report on exploration and the results thereof etc. under section 39(1) of the Bill. Under the provision in section 39(2), the licensee's reports on exploration and the exploration results etc. are generally confidential for a period of five years after the deadline for submission of the reports on exploration and the results thereof etc. to the Government of Greenland. On expiry of the confidentiality period, the licensee's reports etc. belong to the licensee and the Greenland Self-Government, and the licensee and the Greenland Self-Government will both be free to use them, see section 39(5).

Reference is made to the provisions in section 39 and the relevant explanatory notes.

The subsection is intended to contribute to ensuring that a licensee under an exploitation licence who performs mineral exploration and activities in relation thereto under the licence under subsection (1) generally fulfils the obligations which are imposed on licensees under exploration licences for the entire licence period. However, the licensee is not required to perform exploration activities and fulfil explorations obligations under section 38(2).

To subsection (3)

Licensees under other mineral prospecting, exploration or exploitation licences must not perform mineral activities in the licence area under the licensee's mineral exploitation licence. A non-exclusive prospecting licence may include an area which is also included under an exclusive exploitation licence. An exclusive exploration licence or other exclusive exploitation licence cannot include an area which is included under an exclusive exploitation licence.

Nor may other parties who are not licensees under mineral licences perform mineral activities in the licence area under the exploitation licence.

One of the purposes of the provision is to ensure that the licensee under a mineral exploitation licence is the only party allowed to perform activities concerning minerals in the licence area under the exploitation licence. The licensee's performance of exploitation activities in the licence area thus cannot be prevented, restricted or otherwise adversely affected by other parties' activities concerning minerals in the licence area under the exploitation licence.

The ban includes all other parties' performance of all activities concerning minerals in the licence area under the exploitation licence. It applies regardless of whether the other parties' activities are performed under a mineral prospecting, exploration or exploitation licence, a small-scale mineral exploration or exploitation licence or approvals of exploitation of gravel,

stone and similar material for use in construction and infrastructure projects in Greenland. The ban further applies regardless of whether a prospecting licence covering the licence area has been granted before the exploitation licence is granted.

To section 51

To subsection (1)

This subsection clarifies and details the Government of Greenland's statutory authority to set provisions on the payment of a charge for receiving and processing an application for the grant of an exploitation licence under section 43 or an extension of the licence period under an exploitation licence under section 47(2) and for the grant of an exploitation licence or an extension of the licence period. The subsection further clarifies and details the Government of Greenland's statutory authority to set provisions on the payment of a charge for administrative processing concerning an exploitation licence or an extension of the licence period under an exploitation licence.

The Government of Greenland may set provisions on the payment of charges as stated above in an executive order.

Reference is made to section 16 of the Bill and the relevant explanatory notes.

To subsection (2)

This subsection clarifies and details the Government of Greenland's authority to set provisions and terms on the licensee's payment of consideration to maintain an exploitation licence and activities under the licence, etc.

By way of example, such provisions and terms could be provisions on an annual consideration for the exploitation rights or charges relating to certain activities.

Considerations may constitute a part of the potential payments received by the Treasury from a licensee for its right to perform activities under an exploitation licence and potential economic and commercial advantages in this regard. When setting the amount of the consideration, regard may be had to a number of factors, including the market conditions prevailing in the mineral sector.

Considerations for the performance of specific activities could, for example, also be an amount which is paid into a fund or pool which will go towards paying for the expenses incurred by the Government of Greenland in connection with cleaning up after mineral activities in cases where the licensees under the Bill fail to comply with their cleaning-up

obligations and no security has been provided for those obligations or the security provided is insufficient.

Paras 1) - 3) of subsection (2) clarify and detail that the Government of Greenland may also, among other things, set provisions and terms on the payment of royalties for exploitation licences. The examples given are not exhaustive.

A royalty is a payment by the licensee for the right to exploit minerals and, therefore, is not a tax.

The amount of considerations can only be set with prospective effect, meaning that the setting of considerations in an executive order will only apply to licences granted after the publication of the executive order and that considerations set in licences cannot be changed during the licence period set in the licence.

To subsection (3)

This subsection concerns the determination of the consideration payable by a licensee to the Government of Greenland, and also allows a licensee to be exempted from taxation of the activities comprised by the licensee's licence.

The subsection establishes that in the context of determining a licensee's payments to the Government of Greenland under subsection (2), the licensee may be exempted from taxation of the activities comprised by the licence if the licensee's exploitation activities are subject to considerations (royalties) at least as onerous as taxation would have been, and the considerations (royalties) are fully covered by section 7 of the Act on Greenland Self-Government.

Moreover, the subsection corresponds to section 8(3) of the former Mineral Resources Act from 1998, as amended by section 9(1)(ii) of Act no. 474 of 13 June 2009 on Various Matters in connection with the Greenland Self-Government. In the explanatory notes to section 9(1)(ii) of Act no. 474 of 12 June 2009 on Various Matters in connection with the Greenland Self-Government, the following is stated with regard to section 9(1)(ii):

"*In the context of determining a licensee's payments to the authorities under subsections (1) and (2), the licensee may be exempted from taxation of the activities comprised by the licence if such activities are subject to considerations at least as onerous as taxation would have been, and the considerations are fully covered by the revenue definition in section 7 of the Act on Greenland Self-Government.*"

According to section 7 of the explanatory notes to the Bill on Greenland Self-Government:

"*Under section 7 of the Bill on Greenland Self-Government, revenue from any taxation of mineral resource activities is covered by the revenue definition in section 7. The right to grant tax exemption therefore requires that the tax is replaced by at least as onerous considerations which are fully covered by the revenue definition in section 7 of the Act on Greenland Self-Government.*"

Exemption from taxation is subject to two conditions being met. Firstly, the activities must be subject to considerations (royalties) under subsection (2) and the considerations (royalties) must be at least as onerous as taxation would have been. Secondly, the considerations imposed must be fully covered by the revenue definition in section 7 of the Act on Greenland Self-Government. Both conditions must be met for tax exemption to be granted under the provision.

To subsection (4)

This subsection ensures that licensees under exploitation licences granted on the basis of exploration licences which are granted before the entry into force of the Bill will not be hit harder economically than assumed at the time when the exploration licence was granted.

To subsection (5)

This subsection provides the statutory basis for the Government of Greenland to charge amounts to cover any expenses incurred by the Government of Greenland in connection with case processing and administrative processing under this Bill. By way of example, the subsection covers collecting of expenses for case processing, supervision, other administrative processing, business trips and external advisers and consultants, etc.

The subsection concerns collection of charges or amounts to cover processing expenses concerning the exploitation licence and activities under the licence.

The amount payable may be collected as a charge or as reimbursement of expenses.

The amount payable for administrative processing may, for example, be collected on the basis of an hourly rate for the hours currently spent on case processing and other administrative processing, including the grant of licences and approvals, etc.

Any expense can be collected as a charge or as reimbursement of expenses to the extent that the payment generally corresponds to the expenses incurred by the Government of Greenland for case processing and administrative processing. Thus, it is not the intention that, on the basis of the authority provided in this subsection, expenses to be collected as charges or as

reimbursement of expenses beyond the expenses which the Government of Greenland has generally incurred or is generally expected to spend on administrative and regulatory processing.

In addition, the subsection provides the authorisation for the Government of Greenland to set terms in a licence to the effect that a licensee must pay the expenses involved in training and upskilling employees of the Government of Greenland.

For example, the Government of Greenland may set terms to the effect that a licensee must cover the costs of courses and other upskilling activities for employees of the Government of Greenland by paying a fixed annual amount during the licence period.

To section 52

To subsection (1)

This subsection imposes an obligation on the Government of Greenland to set terms in a mineral exploitation licence on a licensee‘s use of local workers.

The general principle is that, where possible, a licensee under a mineral exploitation licence must use local workers.

In general, the requirements concerning use of local workers will correspond to the requirements set out in Greenland Parliament Act no. 27 of 30 October 1992 on the Regulation of Import of Foreign Labour in Greenland, as subsequently amended, with the exception that the requirements will apply to all positions in the licensee’s organisation. Similarly, the definition of local workers will in general be the same as in Greenland Parliament Act no. 27 of 30 October 1992 on the Regulation of Import of Foreign Labour in Greenland, as subsequently amended.

This means, among other things, that the licensee must endeavour in a relevant manner to fill positions with local workers before filling positions with foreign workers.

The purpose of section 52(1) of the Bill is to ensure that local workers are used for the performance of activities in connection with mineral exploitation to the greatest extent possible.

This is intended to contribute to creating jobs for local workers and also to maximising the income flowing to the Greenland Treasury from mineral resource projects.

In relation to the EU and EU rules, Greenland enjoys the status of an overseas country and

territory (OCT) and is thus an associated territory to the EU. As a result, the general EU rules do not apply to Greenland. Instead, the EU's special arrangement and special rules, decisions and agreements on overseas countries and territories (OCTs) apply to Greenland.

These rules include, but are not limited to, articles 198-204 concerning the association of overseas countries and territories with the EU in the Treaty on the Functioning of the European Union (the TFEU), Council Decision of 14 March 2014 on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other (2014/137/EU) (the Partnership Agreement) and Council Decision of 25 November 2013 on the association of the overseas countries and territories with the European Union (2013/755/EU) (the Overseas Association Decision).

In general, no rules have been adopted concerning the free movement of labour between the EU countries and the overseas countries and territories under article 202 TFEU (ex article 186). It follows from article 51(1)(b) of the Overseas Association Decision (2013/755/EU) that the authorities of overseas lands and territories (OCTs) must accord to natural and legal persons of the European Union a treatment no less favourable than the most favourable treatment applicable to like natural and legal persons of any major trading economy with whom it has concluded an economic integration agreement after 1 January 2014.

According to article 51(3) of Council Decision of 25 November 2013 (2013/755/EU):

"*The authorities of an OCT may with a view to promoting or supporting local employment, adopt regulations to aid their natural persons and local activities. In this event, the OCT's authorities shall notify the Commission of the regulations they adopt so that it may inform the Member States thereof.*"

If such regulations are adopted, the OCT authority in question must thus notify the Commission of the regulations adopted, and the Commission will then inform the member states. Thus, preferential treatment of local workers is not contrary to the EU rules.

The Kingdom of Denmark, and thus Greenland, is a member of the World Trade Organisation (the WTO), which has adopted a number of regulations. For one thing, regulations to promote international trade and exchange of services have been adopted. Being part of the Danish Realm, Greenland is a member of the WTO. Accordingly, the WTO regulations also apply to Greenland.

The WTO regulations include the General Agreement on Trade in Services (the GATS), which regulates trade in services. Under article I(3)(b) (article 1(3)(b)) of the GATS, the term "services" includes any service in any sector except services supplied in the exercise of governmental authority.

In article XVI (article 16) and article XVII (article 17), the GATS provides rules on market access and so-called national treatment. The provision on market access means that a member is not allowed to accord services and service suppliers of any other Member treatment less favourable than that provided for under the terms, limitations and conditions specified in the so-called concession list. The provision on national treatment means that a member is not allowed to accord to services and service suppliers of any other member treatment no less favourable than that it accords to its own like services and service suppliers. Like the market access rule, the nationality principle only applies if the member itself has stated in the concession list that the principle is to apply for all or specified sectors within the area of the services.

Currently, Denmark, and thus also Greenland, has not assumed any specific obligations (known as concessions) with regard to market access and national treatment under the GATS. Thus, preferential treatment of local workers is not contrary to the GATS.

However, preferential treatment of local workers may be at odds with the rules on market access and national treatment under the GATS if Denmark, and thus Greenland, assumes specific obligations within the sectors comprising the workers which the licensees are required to use under section 52(1) of the Bill.

To subsection (2)

This subsection requires the Government of Greenland to set terms on a licensee's use of local suppliers of goods and services in a mineral exploitation licence.

The general principle is that, where possible, a licensee under a mineral exploitation licence must use local suppliers of goods and services when performing activities under the licence.

In general, the requirements concerning use of local suppliers will mean that the licensee must use local suppliers, unless no local suppliers with the necessary competences and experience are available or no local suppliers with the necessary competences and experience offer to supply the services and want to enter into an agreement for the supply of services on the price terms and other contractual terms offered by the licensee.

In addition, price terms and other contractual terms offered by the licensee to local suppliers must not be less favourable for the suppliers than the price terms and other contractual terms offered by the licensee to other suppliers. And the licensee must endeavour in a relevant manner to enter into agreements with local suppliers before contracting with foreign suppliers.

Local suppliers are defined as companies having their registered office in Greenland and

individuals deemed to have a special connection to Greenland under Greenland Parliament Act no. 27 of 30 October 1992 on the Regulation of Import of Foreign Labour in Greenland, as amended.

The purpose of section 52(2) of the Bill is to ensure that local suppliers are used in the performance of activities in connection with mineral exploitation to the greatest extent possible.

This is intended to contribute to creating jobs for local workers and also to maximising the income flowing to the Greenland Treasury from mineral resource projects.

As already mentioned in the explanatory notes to subsection (1), in relation to the EU and EU rules, Greenland enjoys the status of an overseas country and territory (OCT) and is thus an associated territory to the EU. As a result, the general EU rules do not apply to Greenland. Instead, the EU's special arrangement and special rules, decisions and agreements on overseas countries and territories (OCTs) apply to Greenland. These rules include, but are not limited to, articles 198-204 concerning the association of overseas countries and territories with the EU in the Treaty on the Functioning of the European Union (the TFEU), Council Decision of 14 March 2014 on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other (2014/137/EU) (the Partnership Agreement) and Council Decision of 25 November 2013 on the association of the overseas countries and territories with the European Union (2013/755/EU) (the Overseas Association Decision).

It follows from the OCT rules that the OCT authorities are not allowed to treat the members' companies, citizens and enterprises differently, and that the OCT authorities are not allowed to treat the members' companies, citizens and enterprises less favourably than how they treat third country nationals, companies and enterprises. Furthermore, article 51(3) of the Overseas Association Decision provides that the authorities of an OCT may, with a view to promoting or supporting local employment, adopt regulations to aid its own natural persons and local activities. Reference is made to the discussion in the explanatory notes to subsection (1). Thus, preferential treatment of Greenland construction contracts, supplies and suppliers is not contrary to the EU rules.

As already mentioned in the explanatory notes to subsection (1), Greenland is a member of the WTO because it is part of the Danish Realm. Accordingly, the WTO regulations also apply to Greenland.

The WTO regulations include rules governing trade in goods in the form of the General Agreement on Tariffs and Trade (the GATT) and rules governing trade in services in the form of the General Agreement on Trade in Services (the GATS).

The GATT establishes the principle of national treatment and non-discrimination in article III. The provision prescribes that imported goods must be accorded treatment no less favourable than that accorded to like goods of national origin.

Article III(4) (article 3(4)) of the GATT establishes that products from a member state imported into the territory of another member state must be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

However, the GATT includes rules which enable a member state to be exempted of its GATT obligations, including the provision in article XVIII (article 18) of the GATT on government assistance to economic development. This provision establishes in subsection (1) that the member states recognise that the attainment of the GATT objectives will be facilitated by the progressive development of their economies, particularly of those member states whose economies can only support low standards of living and are in the early stages of development. The provision in subsection (2) notes that it may be necessary for those member states, in order to implement programmes and policies of economic development designed to raise the general standard of living of their people, to take protective or other measures affecting imports. Under article XVIII(4)(a) and (b) (article 18(4)(a) and (b)) of the GATT, a member state whose economy can only support low standards of living and is in the early stages of development or is in the process of development is thus free to deviate temporarily from the provisions of the other articles of the GATT, subject to specified conditions and to the condition that the procedure under section C or D of article XVIII (article 18) is observed.

A member state which is comprised by article XVIII(4)(a) (article 18(4)(a)) of the GATT is required, before a proposed measure is applied, to inform the other member states of the proposed measure. If the other member states fail within 30 days of being notified of the measure to encourage the relevant member state to consult with them, the member state is entitled to deviate from the relevant GATT provisions. If so encouraged, the member state must consult with the other member states. If the member states fail within 90 days to declare that they agree, the member state in question may apply the measure after informing the members states thereof.

A member state which is comprised by article XVIII(4)(b) (article 18(4)(b)) of the GATT must seek approval of a proposed measure from the other member states. The other member states must forthwith consult with the relevant member state and if the other member states consent, the member state in question must be exempted from its obligations in relation to the measure in question.

The GATT further provides a general exception to the obligations under article XX (article

20) of the GATT. The legitimate exceptions which may be claimed by a member state are listed in article XX (article 20) of the GATT. The exceptions include measures necessary to protect human, animal or plant life or health. In addition, there is a requirement that the measure is justified and properly and proportionately enforced by the member state. The considerations underlying the provision in subsection (2) are probably to a certain extent caught by the general exception provision of the GATT.

As already mentioned, services are covered by the GATS. Under article I(3)(b) (article 1(3)(b)) of the GATS, the term "services" includes any service in any sector except services supplied in the exercise of governmental authority.

As can be seen from the explanatory notes to subsection (1), the GATS sets rules on market access and national treatment. However, those rules only apply if the member state itself has stated in the concession list that the rules on market access and national treatment, respectively, will apply for all or specified sectors within the area of the services. Currently, Denmark and Greenland have not assumed any such specific obligations (concessions).

Thus, the preferential treatment of local suppliers and services is not contrary to the GATS. Reference is also made to the explanatory notes to section 52(1) of the Bill.

To section 53

This section concerns the situation where a licensee under an exploitation licence processes the exploited minerals itself and must contribute to ensuring positive economic and social benefits for the Greenland Self-Government and society.

The section provides the Government of Greenland with a legal basis for setting provisions and terms for an exploitation licence to the effect that the licensee may process the exploited minerals outside Greenland only if processing in Greenland will result in significantly greater costs or disadvantages for the licensee and the advantages for society will not be significantly affected thereby, and this is approved in advance by the Government of Greenland.

As a general rule, the licensee must process the minerals in Greenland. The section enables the Government of Greenland to approve processing to take place outside Greenland in situations where processing in Greenland will make a mining project unprofitable or significantly impair the licensee's revenue opportunities.

Moreover, an approval to process minerals outside Greenland will require that the advantages for society will not be significantly affected thereby. This means that when deciding whether or not to allow the licensee to process minerals outside Greenland, the Government of Greenland may consider, among other things, the loss of revenue to society in the form of

taxes and the loss of jobs. Furthermore, the Government of Greenland may consider the advantages for society in the broad sense, as for instance the fact that local workers and suppliers of goods and services become unable to acquire skills within the mining industry and that local suppliers of goods and services become unable to generate income from the processing.

As mentioned in the explanatory notes to section 52(1), Greenland has the status of an overseas country or territory (OCT) in relation to the EU, and the preferential treatment afforded to local workers and suppliers is not contrary to the EU rules. Reference is made in general to the supplementary explanatory notes to section 52(1).

As mentioned in the explanatory notes to section 52(1), Greenland is a member of the World Trade Organisation (WTO) because it is part of the Danish Realm. Accordingly, the WTO regulations also apply to Greenland.

The WTO regulations include the General Agreement on Trade in Services (the GATS), which regulates trade in services and which includes provisions on market access and national treatment. Denmark, and thus Greenland, have at this point in time not undertaken any specific obligations with respect to market access and national treatment. Thus, the potential preferential treatment of local suppliers providing services in relation to processing is thus not contrary to the GATS. Reference is made to the explanatory notes to section 52(1).

To section 54

This subsection provides the authority for the Government of Greenland to set provisions and terms for an exploitation licence to the effect that the licensee must store exploited minerals in Greenland and sell them to local persons, to the extent local persons intend to process the minerals in Greenland themselves or otherwise use the minerals commercially in Greenland.

Local persons are defined as companies having their registered office in Greenland and individuals deemed to have a special connection to Greenland under Greenland Parliament Act no. 27 of 30 October 1992 on the Regulation of Import of Foreign Labour in Greenland, as amended.

The provision allows Greenland residents, who are not themselves able to or do not wish to collect or extract minerals, to purchase minerals from these stocks for use in connection with their processing or other commercial use of the minerals.

Among other things, the Government of Greenland may set specific provisions on the obligation to store and the obligation to sell and matters in relation thereto in executive orders. The Government of Greenland may also set terms thereon in the form of terms in exploitation

licences and approvals. Reference is made to section 16 of the Bill and the relevant explanatory notes.

Such provisions or terms may include provisions or terms on matters concerning the number of mineral types and volumes of minerals, etc. which must be stored and may be sold, on the duration and procedures and terms applying to the relevant persons' purchase of minerals, including on the minimum volumes for each purchase of minerals.

In the setting of provisions and terms on sale to local persons, regard must be had to the licensee's possibilities of concluding agreements with other purchasers.

The subsection provides that requirements to this effect may be set by the Government of Greenland only if such local persons intend to process the minerals in Greenland themselves or otherwise use the minerals commercially in Greenland.

To subsection (2)

This subsection provides that the licensee's sale of minerals must always be at arm's length prices and on arm's length terms.

To section 55

To subsection (1)

This subsection concerns licensees' reporting to the authorities.

The subsection provides that the licensee under an exploitation licence must submit reports to the Government of Greenland on the exploitation, on any exploration and other activities under the licence and the results thereof. Furthermore, the licensee must submit copies of reports, statements, accounts and other documents and data on the exploitation and the results thereof and any exploitation results and data and samples therefrom and the licensee's interpretations, conclusions and recommendations in that respect as well as samples and drill cores to the extent required by the Government of Greenland, see subsection (7).

To subsection (2)

This subsection provides that all reports, results, data, samples and interpretations, conclusions and recommendations, etc. submitted to the Government of Greenland are confidential.

It is necessary to set rules on confidentiality as the information mentioned above may

generally constitute trade or business secrets which shall remain and be treated as confidential for a reasonable confidentiality period. If the Government of Greenland is or may be required to disclose such information etc., including in connection with an access request, this could give others an improper advantage.

Subsection (2) does not refer to paras 4), 5) and 6) of subsection (2) as these submissions may be confidential beyond the confidentiality period of 5 years.

The provision is in accordance with the Greenland Parliament Act on Access to Public Administration Files (*landstingslov om offentlighed i forvaltningen*). It follows from section 3(1) of the Act that the Government of Greenland may set rules to the effect that specified public authorities, fields of responsibility or document types for which the provisions in sections 7 - 14 generally allow refusal of access requests must be exempted from the Act.

As a general rule, the information under subsection (1) will fall within sections 12 - 14 of the Greenland Parliament Act on Access to Public Administration Files. Subsection (2) will thus ensure, together with the above-mentioned provisions of the Greenland Parliament Act on Access to Public Administration Files, that information exchanged in the Government of Greenland and submitted to committees of the Greenland Parliament is exempted from access.

Under the subsection, the confidentiality period is five years, but see subsections (4) and (5), and five years after the deadline for submission to the Government of Greenland for the entire licence period.

The confidentiality will end when the licence terminates. After the termination of the licence, the licensee is no longer owed confidentiality, and the Government of Greenland needs to be able to publish all of the material submitted to ensure equal treatment of all potential applicants in connection with a public invitation to apply for licences made available for the area under section 59.

On expiry of the confidentiality period, the licensee's reports, exploration results, data, samples and interpretations, conclusions and recommendations, etc. will belong to the licensee as well as the Greenland Self-Government, see subsection (6). Reference is made to the provision in subsection (6) and the relevant explanatory notes.

To subsection (3)

This subsection specifies that documents containing, for example, information about technical installations or procedures or about operating or business matters or the like, may not, where such information is of material financial importance to the licensee, be published by the Government of Greenland to the extent that they are exempted from public access under the

The reason why the confidentiality period is not limited in time as regards the documents in question is that the Government of Greenland has no interest in their publication.

To subsection (4)

This subsection provides that during the confidentiality period, the Government of Greenland may publish general information about the confidential reports, results, data, samples and interpretations, etc.

Under the subsection, before any such general information is published, the Government of Greenland must send the information to the licensee and inform the licensee that it may submit its comments and any reasoned objection to the publication of all or some of the information within a reasonable time-limit of no less than 14 calendar days. If, before the expiry of the time-limit, the licensee submits an objection to the publication of all or some of the information, the Government of Greenland will not publish the relevant information if the licensee's interest in confidentiality is deemed to override the Government of Greenland's interest in publication of the information in question.

By way of example, the Government of Greenland's interest in publishing information of a general nature may be its interest in safeguarding public health, a statutory duty to publish certain information or in connection with the marketing of the geology of Greenland. When determining whether general information under this subsection can be published although an objection has been received from the licensee, regard may be had to factors such as any commercial interest of the licensee in maintaining the confidentiality of the information, whether the publication of the information would be contrary to the rules of a stock exchange where the licensee is registered, and whether the individual licensee is identifiable in spite of the general nature of the information.

To subsection (5)

This subsection is intended to provide the basis for the Government of Greenland's publication at any time of environmental data and environmental reports that are deemed to be of general public interest. This may in particular be the case where citizens residing or having business interests in the immediate vicinity of mineral activities may be affected by the potential environmental impact of the activities.

To subsection (6)

This subsection provides that when the confidentiality period expires under subsection (2), the submitted reports, any exploration results, data, samples and interpretations, etc. belong to the licensee as well as the Greenland Self-Government, and the licensee and the Greenland Self-Government will both be free to use them.

The ownership rights of the Greenland Self-Government only include material that is attributable to mineral activities in Greenland. By way of example, the Greenland Self-Government will have no rights in software and methods used to produce the material.

In practice, licences under the Mineral Resources Act often contain similar terms. The same is expected to be the case for licences under the Bill. However, it is deemed to be more appropriate for the provision to be expressly stated in the Bill.

To subsection (7)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the matters mentioned in subsections (1) - (4). An example of this would be provisions or terms on the content, format and frequency of the reports, including on their submission by specific time-limits, in connection with the performance of specific activities and the occurrence of specific events or conditions.

Another example would be provisions or terms on the possibility for the Government of Greenland to publish general information about specific activities, results, events and matters.

The Government of Greenland may set specific rules in this regard in executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals.

Reference is made to section 16 of the Bill and the relevant explanatory notes.

To section 56

This section provides the authority for the Government of Greenland to set provisions and terms on all relevant matters and considerations in connection with the grant of a mineral exploitation licence and matters in relation thereto.

The section must be construed and applied in accordance with section 43 of the Bill concerning the grant of a mineral exploitation licence on specific terms.

Among other things, the Government of Greenland may set provisions in executive orders, model licences, application procedures, other procedures and guidelines concerning exploitation licences set under the Bill. The Government of Greenland may also set terms in standard terms for exploitation licences and approvals concerning exploitation licences and terms in decisions made under the Bill.

Reference is made to section 16 of the Bill and the relevant explanatory notes which define what is meant by "provisions and terms" for the purposes of the Bill.

The exploitation licence document will state a number of formalities such as licence type, licence area, licence period and identification of licensee.

In addition, a number of other terms will apply which may be set in executive orders, model licences, application procedures, other procedures and guidelines concerning exploitation licences or in the licence document itself. By way of example, this could be requirements to the licensee's organisation, activities comprised by the licence, the circumstances under which the licence may be terminated, the licensee's obligations after termination of the licence, requirements to safety and social sustainability, the licensee's obligation under certain circumstances to prepare environmental impact assessments and reports thereon (EIA reports), social impact assessments (SIAs) and reports thereon (SIA reports) and enter into impact benefit agreements (IBAs), submission and approval of activity plans, provision of security for the licensee's obligations under the Bill, the licensee's insurance matters, the licensee's liability in damages, the licensee's reporting on exploration and submission to the Government of Greenland of data and samples, etc., confidentiality, the licensee's payment of charges to the Government of Greenland and the licensee's use of local workers and suppliers.

To section 57

To subsection (1)

This subsection concerns procedures and criteria for the grant of an exploration licence, see section 34.

The Government of Greenland decides in which of the manners set out in sections 58 and 59 it wishes to grant an exploration licence. The grant of an exploration licence must be based on the selection criteria set out in section 61.

The grant of mineral exploration licences is generally governed by section 34 of the Bill. Reference is made to that provision and the relevant explanatory notes.

The provisions of sections 59 and 61 include rules which to some extent correspond to the rules applying under the EU Concession Directive (Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons), as subsequently amended.

The Concession Directive or corresponding rules and principles apply in many countries with activities relating to mineral resources (oil, natural gas and minerals), including also non-EU countries. The Concession Directive applies only to hydrocarbons (oil and natural gas), but it is also relevant and expedient to use the principles of the Concession Directive for the grant of mineral exploration and exploitation licences.

To subsection (2)

This subsection concerns procedures and criteria for the grant of an exploitation licence.

The provision must be construed and applied in accordance with sections 41 and 42. Reference is made to those provisions and the relevant explanatory notes.

Under sections 41 and 42, the licensee under an exploration licence or a small-scale licence is entitled on specific terms to be granted exploitation rights for delineated and demonstrated viable deposits. A licensee under an exploration licence is thus entitled to be granted an exploration licence when the licensee has substantiated the existence of a viable mineral deposit and also met the other terms of the exploration licence.

Moreover, the subsection concerns procedures and criteria for the grant of an exploitation licence in all other situations but where an exploitation licence is granted on the basis of a preceding mineral exploration licence, see section 41, or a preceding mineral small-scale exploration and exploitation licence, see section 42.

The provision establishes that the grant of exploitation licences in all other situations but for the situations under sections 41 and 42 must be put out to competition in a manner allowing all interested parties to tender for a licence area on equal terms.

One of the purposes of this provision is to avoid that viable deposits discovered remain unexploited by attracting other applicants in the situations where a licensee under an exploration licence or a small-scale licence does not apply for the grant of a subsequent mineral exploitation licence.

To section 58

The provisions of this section concern the manners in which the Government of Greenland may grant a mineral exploration licence or a mineral exploitation licence.

To subsection (1)

In general, this subsection corresponds to the procedure for the grant of exploration licences under the current standard terms of 25 June 2013 for mineral exploration and prospecting licences in Greenland.

The provision concerns the so-called batch procedure. It follows from the provision that the Government of Greenland sets an application period (batch period) during which the applicant may apply for the grant of licences to explore under the Bill. The batch procedure does not concern a specific area. This means that the applicants may apply for the grant of licences for any area which is not already comprised by an exclusive licence under the Bill, to the extent that the area is not comprised by one of the procedures mentioned in section 59(1)-(3). Reference is made to the provisions mentioned and the relevant explanatory notes.

All applications received within the same application period (batch period) will be considered as if received simultaneously by the Government of Greenland. By way of example, if the Government of Greenland sets an application period (batch period) running from 2 January 2024 through 16 January 2024, all applications received during this period will be considered as if received simultaneously.

If the Government of Greenland receives applications during another and subsequently fixed application period (batch period), all applications received during this period will be considered as if received simultaneously, but after the applications received during a preceding application period.

All applications received within the first application period will be considered first by the Government of Greenland and thus before the Government of Greenland considers any other applications received from one or more subsequent application periods (batch periods).

An application period (batch period) usually lasts 14 days.

However, the Government of Greenland may set a longer or shorter period, see subsection (4). Moreover, the Government of Greenland may set specific provisions and terms on the submission, receipt, recording and processing of applications under the batch procedure. Reference is made to that provision and the relevant explanatory notes.

Among other things, the Government of Greenland may set requirements to the contents of applications and set provisions that applications must be received within normal business hours etc.

To subsection (2)

This subsection provides that the batch period for an area will be extended if a former licensee under a mineral exploration licence submits an application for a mineral exploration licence for the same area less than 90 calendar days after the termination of such licence.

The purpose of the provision is to prevent licensees under exploration licences from surrendering and applying for exploration licences for the same area and thereby reduce the exploration obligations under the licence, without other potential applicants being given the opportunity to apply for a licence for the same area, on the same terms as the licensee surrendering the licence. By extending the batch period to 90 calendar days, other potential applicants are given the opportunity to assess the mineral potential in the relevant area and are thus placed on equal footing with the licensee having surrendered the licence.

The provision will also apply where an application is received from someone who is an interested party of the licensee under the expired exploration licence.

To subsection (3)

This subsection establishes that the Government of Greenland may decide not to grant a licence on the basis of applications submitted under subsections (1) - (2). The Government of Greenland is thus free to decide whether or not it will grant a licence.

To subsection (4)

This subsection provides that the Government of Greenland may set specific provisions and terms on the submission, receipt, recording and processing of applications under subsections (1) - (2).

Among other things, the Government of Greenland may set requirements to the contents of applications and set provisions that two or more complete applications received within normal business hours on the same business day are considered as if received simultaneously.

To section 59

To subsection (1)

This subsection concerns one of several possible procedures which the Government of Greenland may use in connection with the grant of a mineral exploration licence or mineral exploitation licence.

The reason for including the provision is, among other things, a wish to include as many companies as possible in a licensing round with a view to exposing the access to Greenland's mineral deposits to increased competition.

According to the provision, the Government of Greenland will publish a notice on the open door procedure on the Government of Greenland's website and as otherwise relevant, including, for example, in other news media.

The notice must include information on the minerals and areas subject to the open door procedure and how interested parties may obtain further details about the terms therefor.

In case of changes to the open door procedure, the Government of Greenland must publish a notice to that effect in the same manner used for publication of the open door procedure.

Applications for licences under the open door procedure must be submitted no earlier than 90 calendar days after publication of the open door procedure.

To subsection (2)

This subsection concerns one of several possible procedures which the Government of Greenland may use in connection with the grant of a mineral exploration licence or mineral exploitation licence.

The reason for including the provision is, among other things, a wish to include as many companies as possible in a licensing round with a view to exposing the access to Greenland's mineral deposits to increased competition.

According to the provision, the Government of Greenland will publish a notice of the invitation at least 90 calendar days before expiry of the time-limit for application on the Government of Greenland's website and as otherwise relevant, including, for example, in other news media.

To subsection (3)

This subsection concerns one of several possible procedures which the Government of Greenland may use in connection with the grant of a mineral exploration licence or mineral exploitation licence.

To a wide extent, the provision corresponds to the first and second sentences of section 12(1)(b) of the Danish Subsoil Act.

Among other things, the described procedure allows invitations to apply for licences for small areas (mini licensing rounds), if this is deemed appropriate on the basis of requests from companies or experience from previous special licensing rounds, etc.

However, it is also possible to apply this procedure instead of an ordinary licensing round under subsection (2). In such cases, applications submitted in an ordinary licensing round will be regarded as having been submitted in connection with the special licensing round.

To subsection (4)

This subsection establishes that the Government of Greenland may decide not to grant a licence on the basis of applications submitted under subsections (1) - (3). The Government of Greenland is thus free to decide whether or not it will grant a licence, even following a public invitation to apply for licences etc.

To subsection (5)

This subsection provides that the Government of Greenland may set specific provisions and terms on the submission, receipt, recording and processing of applications under subsections (1) - (3).

Among other things, the Government of Greenland may set requirements to the contents of applications and set provisions that two or more complete applications received within normal business hours on the same business day are considered as if received simultaneously.

To section 60

This subsection provides that the Government of Greenland is not liable for or under any obligation to indemnify, compensate, refund or in any other way to pay any expense, cost, loss or damage incurred or sustained by a licence applicant.

According to the provision, this applies irrespective of whether a loss or damage is incurred or

sustained by an applicant as a result of or in connection with the applicant's application for the grant of a licence or that the applicant in that connection performs work, activities, studies and surveys, etc. and incurs costs etc.

Furthermore, this applies irrespective of whether the applicant in that connection acquires, obtains or compiles data and documents thereon and submits such data and documents to the Government of Greenland.

It also applies irrespective of the Government of Greenland in that connection processes and decides on the applicant's application for the grant of a licence or the Government of Greenland decides not to grant a licence to the applicant.

Among other things, the provision must be construed and applied in accordance with sections 58(3) and 59(4) according to which the Government of Greenland is free to decide whether or not it will grant a licence, even following a public invitation to apply for licences etc. By way of example, if, following a public invitation to apply for licences etc., the Government of Greenland decides not to grant a licence, the Government of Greenland will not be liable to indemnify or compensate the applicant for any expenses incurred by the applicant in connection with the application process etc.

To section 61

To subsection (1)

This subsection provides that a licence comprised by sections 58 and 59 is granted on the basis of the selection criteria mentioned in subsections (2) - (5).

The selection criteria mentioned in subsections (2) - (4) correspond to the criteria used for competing applications under the current application procedures and standard terms for mineral exploration and prospecting licences in Greenland. Furthermore, the selection criteria correspond to some extent to the criteria used in previous licensing rounds etc. in Greenland concerning hydrocarbon exploration (oil and natural gas) under the Mineral Resources Act. Similar or comparable criteria have sometimes also been used for licensing rounds concerning other natural resources in Greenland, including ice resources and water resources under Greenland Parliament Act no 11 of 27 November 2018 on commercial exploitation of ice and water (the Ice and Water Act).

The selection criteria mentioned in subsections (2) - (4) are generally the legal and legitimate criteria which may be factors in assessments of two or more applicants for the same area. Moreover, applying the procedures under section 59(1)-(3), the Government of Greenland may stipulate other relevant, objective and non-discriminatory selection criteria with a view to

making the final choice between two or more applicants deemed to be equal following the evaluation of the applicants based on the selection criteria in subsections (2) - (4), see subsection (5).

A licence comprised by sections 57-59 must be granted on the basis of all of the selection criteria mentioned in paras 2) - 4) and may to any relevant extent be supplemented by additional selection criteria stipulated under subsection (5) by applying the procedures under section 59(1)-(3). The selection criteria mentioned in subsections (2) - (4) are thus mandatory and indispensable selection criteria which must be used and included in the assessment involved in the grant of a licence comprised by sections 58 and 59, whether or not competing applications have been submitted. Thus, an application for grant of a licence will be refused if, for example, the applicant does not have the required technical and professional capability (competency) under subsection (2) or the required economic and financial capability (financial capacity) under subsection (3). Reference is made to subsections (2) - (4) and the relevant explanatory notes.

To subsection (2)

This subsection specifies the first selection criterion. The selection criterion concerns the applicant's technical and professional capability, meaning the applicant's competency.

The selection criterion is divided into two sub-criteria. Under para. 1) of subsection (2) weight must be attached to the applicant's previous experience with mineral exploration or exploitation. Under para. 2) of subsection (2) weight must also be attached to the applicant's previous experience with mineral exploration and exploitation in areas with similar conditions. In this assessment, it will be relevant to give it weight whether the applicant has experience with, for example, prospecting in the area applied for.

The selection criterion in subsection (2) is one of the mandatory and indispensable selection criteria which must always be included in the assessment involved in the grant of a licence comprised by sections 57-59. See the explanatory notes to subsection (1).

To subsection (3)

This subsection specifies the second selection criterion. The selection criterion concerns the applicant's economic and financial capability, meaning the applicant's financial capacity.

A key prerequisite for being granted a licence is that the applicant has the financial capacity required to being able to bear the costs incidental to mineral exploration or exploitation and activities in relation thereto.

The selection criterion in subsection (3) is one of the mandatory and indispensable selection criteria which must be used and included in the assessment involved in the grant of a licence comprised by sections 57-59. See the explanatory notes to subsection (1).

To subsection (4)

This subsection provides that the Government of Greenland must also or in addition to the criteria in subsections (2) - (3) have regard to any non-efficiency or non-performance by the applicant of its obligations in connection with other existing or previous licences in Greenland.

Thus, the Government of Greenland's assessment of an application will thus generally include an assessment of whether and to what extent the applicant has fulfilled its obligations or other existing or previous licences in Greenland. Other existing or previous licences under subsection (4) means mineral exploration or exploitation licences under the Mineral Resources Act or the Bill.

In its assessment of any non-efficiency or non-performance by an applicant of its obligations in connection with other existing or previous licences in Greenland, the Government of Greenland must have regard to all relevant matters and aspects, including the importance of any non-performance by the applicant of its obligations.

According to the provision, the Government of Greenland will also take into account whether members of the applicant's management, including a board of directors, an executive board, a supervisory board or similar governing body, are or have been members of, own or have owned or exert or have exerted decisive influence over a licensee company which in connection with other existing or previous licences in Greenland have failed to show efficiency or perform their obligations as licensee.

According to the provision, the Government of Greenland will also take into account whether enterprises owning or exerting decisive influence over the applicant also own or have owned or exert or have exerted decisive influence over a licensee company which in connection with other existing or previous licences in Greenland have failed to show efficiency or perform their obligations as licensee.

Among other things, this subsection is intended to contribute to ensuring that members of the management, owners or persons exerting decisive influence over a company applying for a licence under the Bill have not previously in connection with the management or ownership or decisive influence over a licensee company under other existing or previous licences in Greenland failed to show efficiency or perform their obligations as licensee under such licences.

The provision is further intended to contribute to ensuring that companies owning or exerting decisive influence over a company applying for a licence under the Bill have not previously in connection with the ownership or decisive influence over a licensee company under other existing or previous licences in Greenland failed to show efficiency or perform their obligations as licensee under such licences.

The selection criterion in subsection (4) is the last of the mandatory and indispensable selection criteria in subsections (2) - (4) which must be included and used in the assessment involved in the grant of a licence comprised by sections 57-59. See the explanatory notes to subsection (1).

To subsection (5)

Subsection (5) of the Bill provides the authority for the Government of Greenland to stipulate additional selection criteria (secondary selection criteria) by applying the procedures under section 59(1)-(3) with a view to making the final choice between applicants deemed to be equally qualified based on an evaluation according to the primary selection criteria mentioned in subsections (2) - (4). It is a requirement that the criteria stipulated by the Government of Greenland under subsection (5) are relevant, objective and non-discriminatory.

The provision in subsection (5) only applies when the procedures under section 59(1)-(3) are applied and the provision is only relevant where two or more applicants have achieved the same score and are therefore competing (equal) following an assessment of the applicants on the basis of the primary selection criteria under subsections (2) - (4). In this case, the Government of Greenland has under subsection (5) authority to stipulate and use relevant, objective and non-discriminatory secondary selection criteria with a view to making the final choice between two or more applicants.

Based on an assessment in each individual case of all relevant matters, the Government of Greenland will decide which secondary selection criteria the Government of Greenland finds relevant to stipulate. The secondary selection criteria under subsection (5) must be stipulated in advance by applying the procedures under section 59(1)-(3) and be published in accordance with subsection (6). See subsection (6) and the relevant explanatory notes. The purpose is especially to ensure transparency and equal treatment of all applicants by the applicants knowing all of the selection criteria in advance.

To subsection (6)

This subsection provides that the selection criteria mentioned in subsections (2) - (5) and provisions on the respective weighting of such criteria by applying the procedures under

section 59(1)-(3) must be published together with the invitations to submit applications set out in section 59(1)-(3).

By way of example, in the setting of provisions on the respective weighting of the selection criteria, primary and secondary selection criteria may be used. Such primary and secondary criteria have previously been specified in licensing rounds for hydrocarbon licences in Greenland.

To section 62

To subsection (1)

This subsection concerns the grant of a licence to perform scientific surveys in relation to minerals.

One example of such scientific surveys could be scientific surveys concerning geological, geo-physical or geo-chemical matters. Another example could be scientific surveys concerning other matters of relevance to activities comprised by the Bill.

This subsection provides that on specific terms, the Government of Greenland may grant such a scientific survey licence.

A scientific survey licence could be granted, for example, to private enterprises, research institutions, educational institutions, public authorities or companies owned by the Self-Government.

To some extent, a scientific survey licence covers the same types of surveys as a prospecting licence. Under a prospecting licence, however, the survey activities are performed in a commercial context or wholly or partly for a commercial purpose. For example, the licensee under a prospecting licence may use the survey results itself as the basis for subsequent mineral exploration and perhaps exploitation, or as the basis for selling information and reports on the survey results and copies of survey data etc. to interested parties. Interested parties would include enterprises looking to carry out mineral exploration or perhaps mineral exploitation activities.

Under a scientific survey licence available under section 62, the survey activities are carried out in a scientific context and for a scientific purpose and, thus, not in a commercial context or for a commercial purpose.

Furthermore, a scientific survey licence may be granted to the Geological Survey of Denmark and Greenland (GEUS) or the Danish Centre for Environment and Energy (DCE) if GEUS or

DCE would like to carry out scientific surveys which are not carried out by agreement with the Government of Greenland under section 22(4) of the Bill.

In a scientific survey licence terms are set to the effect that the licensee must submit reports to the Government of Greenland on the scientific surveys and activities under the licence and the results thereof and provide copies of the prospecting results and data and samples therefrom and the licensee's interpretations, conclusions and any recommendations in that respect, etc. Such terms are especially with a view to safeguard the interests of the Government of Greenland, society and other parties therein, including as a part of the basis for subsequent scientific surveys, prospecting, exploration and exploitation of minerals.

A scientific survey licence under section 62 can and should generally be granted as an ordinary licence to carry out certain scientific surveys.

Under special circumstances, however, a scientific survey licence under section 62 may be granted as a framework licence if special and material circumstances weigh in favour of doing so, including if the scientific surveys are carried out under a cooperation agreement with a research institution. The Government of Greenland will decide whether that is the case and whether a scientific survey licence under section 62 is to be granted as a framework licence.

A framework licence may include all or some of the scientific surveys that are planned to be carried out in the relevant year or in another longer period.

The intention with the conclusion with broad framework agreements is to ensure continuous research processes and to avoid that research institutions incur unnecessary extra administrative burdens in the form of a resource-intensive administrative processing.

However, activities comprised by such a framework licence may not be performed without the prior approval of the Government of Greenland, unless otherwise provided in the licence.

To subsection (2)

Under this subsection, a scientific survey licence is granted for a licence period of up to three years. Thus, the licence period of a scientific survey licence may be less than three years, including, for example, two years, but cannot exceed three years.

The provision in subsection (2) does not preclude a scientific survey licence from being extended. See subsections (3) and (4) and the relevant explanatory notes.

To subsection (3)

This subsection concerns the extension of a licence period of a scientific survey licence granted under subsection (1).

Under this subsection, the Government of Greenland may extend the licence period of up to three years under subsection (2) by one or more periods of up to three years each.

By way of example, a licence period can be extended from three years to four or six years by an extension. If the licensee submits an application in this regard and the Government of Greenland approves the application, the licence period may be further extended from, for example, four to six years or from six to seven or nine years.

However, the total licence period of a scientific survey licence may not be longer than 12 years, see subsection (4).

However, if the licensee has failed to fulfil all of its obligations in relation to the licence and perform all activities under the licence during the initial licence period under subsection (2) or an extended licence period under subsection (3), the Government of Greenland may decide not to grant an extension of the licence period.

Moreover, under this provision, the Government of Greenland may set changed licence terms in connection with any extension of the licence period. By way of example, this could be changed terms about the licensee's obligations, including, without limitation, specific or amended terms on the licensee's obligations to submit reports to the Government of Greenland on the scientific surveys and activities under the licence and the results thereof and provide copies of the prospecting results and data and samples therefrom and the licensee's interpretations, conclusions and any recommendations in that respect, etc.

This provision aims at ensuring that based on an assessment in each individual case, an extension may be granted on changed licence terms if there are good reasons for doing so, e.g. in order to ensure that current surveys of a scientific nature can be continued with a view to safeguarding the interests of the licensee, the Greenland Self-Government and society.

To subsection (4)

This subsection imposes an upper limit on the duration of the total licence period of a scientific survey licence granted under subsection (1). Under the provision, the total licence period of a scientific survey licence may not be longer than 12 years.

If a licensee wishes to perform additional scientific survey activities after a licence period of 12 years, the licensee must apply for the grant of a new scientific survey licence under subsection (1).

To section 63

To subsection (1)

This subsection concerns licensees' reporting to the authorities.

Under the subsection, the licensee under a scientific survey licence must generally submit to the Government of Greenland reports on the activities performed by the licensee under the licence, copies of the results obtained as well as samples to the extent that provisions or terms to this effect are set by the Government of Greenland, see subsection (6) and the relevant explanatory notes.

To subsection (2)

This subsection provides that all reports, scientific results, data, samples and interpretations, conclusions and recommendations, etc. submitted to the Government of Greenland are confidential.

It is necessary to lay down rules on confidentiality as the information mentioned above may constitute trade or business secrets which should remain and be treated as confidential for a reasonable confidentiality period. If the Government of Greenland is or may be required to disclose such information etc., including in connection with an access request, this could give others an improper advantage.

The provision is in accordance with the Greenland Parliament Act on Access to Public Administration Files (*landstingslov om offentlighed i forvaltningen*). It follows from section 3(1) of the Act that the Government of Greenland may set rules to the effect that specified public authorities, fields of responsibility or document types for which the provisions in sections 7 - 14 would generally allow refusal of access requests must be exempted from the Act.

As a general rule, the information under subsection (1) will fall within sections 12 - 14 of the Greenland Parliament Act on Access to Public Administration Files. Subsection (2) will thus ensure, together with the above-mentioned provisions of the Greenland Parliament Act on Access to Public Administration Files, that information exchanged in the Government of Greenland and submitted to committees of the Greenland Parliament is exempted from access.

Under the subsection, the confidentiality period is generally the entire licence period, but see subsections (3) and (4), and five years after the deadline for submission to the Government of Greenland.

In general, thus, the information under subsection (1) will be confidential until the licence terminates and may remain confidential after the termination of the licence to the extent that the deadline for submission is less than five years before the end of the licence period.

To the extent that the information under subsection (1) must be submitted at a time when the remaining licence period is less than five years, the information will remain confidential until the licence terminates and for a period after the termination of the licence which will be five years as from the deadline for submission. This means that the information under subsection (1) is confidential until 1 January 2028 if the deadline for submission is 1 January 2023, even if the licence in question terminates on 1 January 2026. If, instead, the licence is extended under section 61(3) of the Bill so as to terminate on 1 January 2031, the information in question will remain confidential until that date.

On expiry of the confidentiality period, the licensee's reports, prospecting results, data, samples and interpretations, conclusions and recommendations, etc. will belong to the licensee as well as the Greenland Self-Government, see subsection (5). Reference is made to the provision in subsection (5) and the relevant explanatory notes.

To subsection (3)

This subsection provides that during the confidentiality period, the Government of Greenland may publish general information about the confidential information, reports, scientific survey results, data, samples, interpretations, conclusions and recommendations, etc.

Under the subsection, before any such general information is published, the Government of Greenland must send the information to the licensee and inform the licensee that it may submit its comments and any reasoned objection to the publication of all or some of the information within a reasonable time-limit of no less than 14 calendar days. If, before the expiry of the time-limit, the licensee submits an objection to the publication of all or some of the information, the Government of Greenland will not publish the relevant information if the licensee's interest in confidentiality is deemed to override the Government of Greenland's interest in publication of the information in question.

By way of example, the Government of Greenland's interest in publishing information of a general nature may be due to its interest in safeguarding public health, a statutory duty to publish certain information or in connection with the marketing of the geology of Greenland.

To subsection (4)

This subsection is intended to provide the basis for the Government of Greenland's publication at any time of environmental data and environmental reports that are deemed to be of general public interest. This may in particular be the case where citizens residing or having business interests in the immediate vicinity of mineral activities may be affected by the potential environmental impact of the activities.

To subsection (5)

This subsection provides that when the confidentiality period expires under subsection (2), the submitted reports, prospecting results, data, samples, interpretations, conclusions and recommendations, etc. belong to the licensee as well as the Greenland Self-Government, and the licensee and the Greenland Self-Government will both be free to use them.

The ownership rights of the Greenland Self-Government only include material that is attributable to mineral activities in Greenland. By way of example, the Greenland Self-Government will have no rights in software and methods used to produce the material.

In practice, licences or terms of licences under the Mineral Resources Act often contain corresponding or similar terms. The same is expected to be the case for licences under the Bill. However, it is considered to be more appropriate for the provision to be expressly stated in the Bill.

The current standard terms of 23 June 2013 for mineral exploration and prospecting licences also contain similar provisions.

To subsection (6)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the matters mentioned in subsections (1) - (5). An example of this would be provisions or terms on the content, format and frequency of the reports, including on their submission by specific time-limits, in connection with the performance of specific activities and the occurrence of specific events or conditions.

Another example would be provisions or terms on the possibility for the Government of Greenland to publish general information about specific activities, results, events and matters, etc.

The Government of Greenland may lay down specific rules in this regard in executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms

of licences and approvals. Reference is made to section 16 of the Bill and the relevant explanatory notes.

To section 64

To subsection (1)

This subsection provides the authority for the Government of Greenland to set provisions and terms on all relevant matters concerning the grant of a mineral scientific survey licence and matters in relation thereto.

The subsection must be construed and applied in accordance with section 62 of the Bill concerning the grant of a licence to perform scientific surveys on specific terms.

Among other things, the Government of Greenland may set provisions in executive orders, model licences, application procedures, other procedures and guidelines concerning scientific survey licences set under the Bill. The Government of Greenland may also set terms in standard terms for scientific survey licences and approvals concerning scientific survey licences and terms in decisions made under the Bill. Reference is made to section 16 of the Bill and the relevant explanatory notes which define what is meant by "provisions and terms" for the purposes of the Bill.

The scientific survey licence document will state a number of formalities such as licence type, licence area, licence period and identification of licensee.

In addition, a number of other terms will apply which may be set in executive orders, model licences, application procedures, other procedures and guidelines concerning scientific survey licences or in the licence document itself. By way of example, this could be requirements to the licensee's organisation, activities comprised by the licence, the circumstances under which the licence may be terminated, the licensee's obligations after termination of the licence, any obligations of the licensee with regard to performing scientific surveys in the licence period, requirements to safety and social sustainability, the licensee's obligation under certain circumstances to prepare environmental impact assessments and reports thereon (EIA reports), social impact assessments and reports thereon (SIA reports) and enter into agreements on social sustainability and other socioeconomic matters (IBAs), submission and approval of activity plans, provision of security for the licensee's obligations under the Bill, the licensee's insurance matters, the licensee's liability in damages, the licensee's reporting on scientific surveys and submission to the Government of Greenland of data and samples, etc., confidentiality, the licensee's payment of charges and consideration to the Government of Greenland and the licensee's use of local workers and suppliers.

To subsection (2)

It follows from this subsection that the Government of Greenland may set specific provisions on the licensee's payment of expenses in connection with rescue operations. An example of such specific provisions would be provisions on the licensee's payment of expenses in connection with rescue operations involving researchers or other parties performing activities under a scientific research licence.

It has turned out in practice, among other things, that it may be necessary to be able to require that such expenses are covered by insurance or other security. Thus, the Government of Greenland may set specific provisions on the taking out of such insurance cover or provision of such security.

To section 65

This subsection specifies that the provisions of Part 10 only apply to mineral prospecting, exploration and exploitation licences.

To section 66

To subsection (1)

This subsection imposes requirements to the licensee's competency and financial capacity.

The professional expertise and economic background required in a specific case will depend on the scope, complexity and risk, etc. of the activities. The provision seeks to ensure reasonable proportionality between the scope and nature of the activities and the requirements imposed on a licensee under a specific licence.

As activities under an exploitation licence will lead to far more extensive and material obligations than activities under a prospecting licence, the requirements imposed on a licensee under an exploitation licence with regard to the licensee's professional expertise and economic and financial capability (financial capacity) must be stricter than those imposed on the licensee under a prospecting licence.

To subsection (2)

This subsection provides that the licensee under a licence must have full control of its assets.

Moreover, the licensee must not be insolvent or subject to a judicial or administrative insolvency, restructuring or similar process, which includes that the licensee must not be in

suspension of payments, bankruptcy, liquidation or reconstruction or in a comparable situation.

The provision is intended to contribute to ensuring that licensees under a licence has the required economic and financial capability to perform the activities under the licence. This means, among other things, that the licensee must not be insolvent or subject to a judicial or administrative insolvency, restructuring or similar process, etc.

To subsection (3)

This subsection provides that the licensee must not have outstanding debts to the Government of Greenland or other public authorities in Greenland in excess of DKK 100,000.

The Government of Greenland may approve that a licensee is temporarily exempted from meeting the requirement under subsection (3).

One of the purposes of this provision is to reduce the debt level to the Government of Greenland or other public authorities in Greenland and prevent new arrears.

The provision corresponds to para 4) of section 19(1) of the Greenland Parliament Act on procurements in connection with the procurement of goods and services by public authorities and institutions (the Public Procurement Act).

Paras 1) - 4) of section 19(1) of the Public Procurement Act list four grounds which may result in a contracting authority excluding an applicant from a public procurement process. The contracting authority may for each procurement process decide that the four grounds (exclusion grounds) will apply. The four grounds are thus referred to as voluntary exclusion grounds.

Under the provision in para. 4) of section 19(1), the contracting authority may exclude an applicant or tenderer from a public procurement process if the applicant or tenderer has outstanding debts to public authorities in excess of DKK 100,000.

According to the explanatory notes to para. 4) of section 19(1) of the Public Procurement Act:

"*The provision is intended to reduce the debt level to the public authorities and prevent new arrears.*

It is not a requirement that unpaid debt in excess of DKK 100,000 must have been established in a judicial or administrative decision with final and binding effect.

The provision also includes any interest or penalty accrued as a result of the unpaid debt.

The debt is only relevant if it is still unpaid at the time of expiry of the deadline for submission of tenders or after such date and, in connection with pre-qualification, at the time of expiry of the deadline for applications or after such date."

If a licensee has outstanding debts to the Government of Greenland or other public authorities in Greenland in excess of DKK 100,000, the licensee may be exempted from fulfilling the requirement under the provision, if the licensee provides security for payment of the part of the debt which exceeds DKK 100,000 or has entered into and complied with an agreement to pay the debt.

In those cases, the debt to the public authorities will be adequately secured and the purpose of the provision thus fulfilled.

To subsection (4)

Under the provision, the Government of Greenland may set provisions and terms to change the amount of DKK 100,000 in accordance with the changes in the Greenland consumer price index after the entry into force of the Bill, see section 144.

To section 67

To subsection (1)

This subsection provides that the licensee, individuals owning or exerting decisive influence over the licensee and members of the licensee's management, including a board of directors, an executive board, a supervisory board or similar governing body, must not have been convicted of or accepted a fine or other penalty or sanction in the last four years for bribery, fraud or cartel operation, participation in a criminal organisation, acts of terrorism or terrorism-related criminal offences, money laundering or terrorism financing and child labour or human trafficking.

To a wide extent, the provision corresponds to section 18 of the Greenland Parliament Act on procurements in connection with the procurement of goods and services by public authorities and institutions (the Public Procurement Act).

According to the explanatory notes to section 18 of the Public Procurement Act:

"*The provision establishes the mandatory exclusion grounds. It is not possible for the contracting entity to not apply these exclusion grounds. They apply to any procurement*

effected under the Bill.

Applicants or tenderers not comprised by a mandatory exclusion ground cannot take part in the procurement process.

If an applicant or tenderer has solemnly declared not to be comprised by the mandatory exclusion grounds, the contracting entity will as a general rule not have a duty to verify this. However, if the contracting entity finds any reason to doubt whether a mandatory exclusion ground applies, whether it does or does not exist, the contracting entity will be obliged to effectively verify this, e.g. by requesting additional documentation from the applicant or tenderer.

The provision does not only apply to judgments delivered in Greenland. A judgment delivered in another country will also impose an obligation on the contracting entity to exclude an applicant or tenderer."

To subsection (2)

This subsection provides that as from the date of grant of the licence and for the entire licence period, the licensee and the persons stated, including members of the licensee's management etc., must fulfil all of the requirements under subsection (1) and section 66.

To section 68

To subsection (1)

This subsection is intended to contribute to ensuring that a licensee and other persons or enterprises performing or contributing to the performance of activities under a licence submit tax reports and make tax payments in accordance with the rules in force in Greenland from time to time.

It follows from the provision that the Government of Greenland may set provisions and terms or decide that the licensee must provide information on the enterprises and persons performing or contributing to the performance of activities under a licence granted under the Bill.

The provision is intended to ensure that the Greenland authorities is able to oversee which enterprises and persons are performing or contributing to the performance of activities under a licence granted under the Bill.

By way of example, the Government of Greenland may set provisions and terms or decide

that the licensee must provide such information regularly, e.g. after the end of each month.

To subsection (2)

This provision is intended to provide a clear statutory authority for the Government of Greenland to demand that the licensee and enterprises and persons performing or contributing to the performance of activities under a licence must provide information and documentation concerning direct and indirect taxes to the Government of Greenland and other Greenland authorities. That way it is possible to effectively verify whether the enterprises and persons in question make tax payments in accordance with the rules in force in Greenland at any time.

The provision does not change the obligation of a licensee or other enterprises or persons to submit tax reports or make tax payments under the general tax legislation in Greenland.

Nor is the Bill intended to impose on the licensee an obligation to submit tax reports or make tax payments on behalf of its contracting parties.

To subsection (3)

Under this subsection, the Government of Greenland may issue an enforcement notice requiring a licensee, in connection with the performance of activities under a licence, not to use contracting parties, see section 17, which have not provided information and documentation concerning direct and indirect taxes to the Government of Greenland and other Greenland authorities under subsection (2) or which fail to pay direct and indirect taxes to the Government of Greenland and other Greenland authorities in accordance with the rules in force in Greenland from time to time. The provision should be read in the context of subsection (2). Reference is made to subsection (2) and the relevant explanatory notes.

The provision does not change the obligation of a licensee or its contracting parties to submit tax reports or make tax payments under the general tax legislation in Greenland.

Under the provision, a licensee is obliged to terminate the cooperation with a contracting party if such contracting party fails to submit correct tax reports and make correct tax payments and the Government of Greenland on that basis issues an enforcement notice requiring the licensee not to use the contracting party in question.

The Bill is not intended to impose on a licensee an obligation to submit tax reports or make tax payments on behalf of its contracting parties.

To subsection (4)

This subsection should be read in the context of subsections (1)-(3). Reference is made to those provisions and the relevant explanatory notes.

It follows from the general principles of administrative law, including the principles of proportionality, that before a licensee is ordered to discontinue its activities, the licensee must be given a reasonable time limit to comply with the order.

The provision does not change the obligation of a licensee or its contracting parties to submit tax reports or make tax payments under the general tax legislation in Greenland.

To section 69

To subsection (1)

This subsection concerns the transfer of licences.

A transfer or assignment means any direct or indirect transfer or assignment of a licence from a licensee company to any other party, including a company, enterprise or person, whether or not the transferee fulfils the requirements to a licensee under the licence.

Any transfer or assignment of a licence to a company is subject to such transferee company's fulfilment of the requirements to a licensee under the licence.

A direct transfer or assignment means a transfer or assignment of a licence from a licensee to any other party.

An indirect transfer or assignment means one or more changes in or concerning a licensee company involving a change of control in the party or parties which exert decisive influence over the company, or which individually or jointly or in cooperation directly or indirectly (through one or more other parties) own, control or have the power to decide over at least 50% of the company's capital or the power to exercise at least 50% of the voting rights.

Thus, an indirect transfer will not exist in connection with the pledge or option to purchase shares unless such matters result in a change of control in the party or parties which exert decisive influence over the company, or which individually or jointly or in cooperation directly or indirectly (through one or more other parties) own, control, or have the power to decide over at least 50% of the company's capital or the power to exercise at least 50% of the voting rights.

The specific meaning of the concept of decisive influence will generally be decided under the relevant provisions and principles thereon in the legislation for Greenland on public limited companies, private limited companies and any other limited liability companies. A decree has now been issued for Greenland on commencement of the Danish Companies Act (*selskabsloven*). Also entrepreneur companies fall within the scope of the Act.

Section 7 of the decree for Greenland on commencement of the Danish Companies Act (*selskabsloven*) sets specific provisions on decisive influence. Under subsection (1), decisive influence means the power to control a subsidiary's financial and operational decisions. Under subsection (2), decisive influence on a subsidiary is exerted if the parent company owns, directly or indirectly through a subsidiary, more than 50% of the voting rights in an enterprise, unless in special cases such ownership can be clearly demonstrated not to constitute a decisive influence. Subsection (3) provides that where a parent company holds 50% or less than 50% of the voting rights in an enterprise, decisive influence is exerted if the parent company has (1) the power to exercise more than 50% of the voting rights by agreement with other investors, (2) the power to control the financial and operational decisions of an enterprise under the articles of association or an agreement, (3) the power to appoint or remove a majority of the members of the supreme governing body, and this body exerts decisive influence on the enterprise, or (4) the power to exercise a de facto majority of the votes at general meetings or at the meetings of an equivalent body, thus exerting de facto decisive influence on the enterprise. Subsection (4) provides that the existence and effect of potential voting rights, including rights to subscribe for and purchase shares that are currently exercisable or convertible, must be taken into account in the assessment of whether a company exerts a decisive influence. Any voting rights attaching to the shares owned by the subsidiary itself or its subsidiaries must be disregarded in the calculation of voting rights in the subsidiary. This follows from subsection (5).

As far as possible, the principles of the statutory provisions must be correspondingly applied in relation to other parent companies and companies than Greenland and Danish limited liability companies, including other Greenland and Danish enterprises and foreign limited liability companies and other enterprises, and in relation to persons holding shares in the licensee company.

If the licensee company has its registered office in a country other than Greenland, the rules of such other country which apply to the licensee company must also be taken into account in the determination of whether another country, an enterprise or a person exercises decisive influence over the licensee company.

Transfers or assignments of licences are not unusual and often forms a natural part of the development from initial prospecting to eventual exploitation. A transfer or assignment often

takes place due to financing reasons.

On this basis, approval of a transfer or assignment will not be unreasonably withheld. Before an approval is granted, it must be ensured, among other things, that the basis for meeting the obligations incumbent on the licensee is not reduced or removed as a result of a transfer or assignment.

One of the purposes of the subsection is thus to ensure that the Government of Greenland is able to oversee that before any such transfer or assignment, it is ensured that the basis for meeting the obligations under the licence is not reduced or removed as a result of the transfer or assignment. Another purpose of the subsection is to ensure that the Government of Greenland is able to ensure that the basis for qualified operation of the mineral activities is not reduced as a result of the transfer.

Furthermore, the purpose of the subsection is to ensure that the Government of Greenland is able, among other things, to take into account economic matters and matters relating to direct and indirect taxes and that the Government of Greenland is allowed to refuse to grant an approval of transfers or assignments if they have potential adverse effects in terms of direct and indirect taxes on the Greenland Self-Government and society. This will typically only be the case for speculation in the transfer of taxable profits from Greenland to abroad or for speculation in the transfer of tax losses from abroad to Greenland.

The Government of Greenland may, among other things, set terms in a licence to the effect that a licensee must inform the Government of Greenland of any changes with regard to the decisive influence exercised over the licensee company.

To subsection (2)

This subsection specifies that the Government of Greenland may set terms in connection with the approval of a transfer.

The subsection is intended to contribute to ensuring that the transferee will meet the same requirements as the transferor and that the Greenland Self-Government's possibilities of safeguarding its interests, including economic interests, are not affected by a transfer.

To subsection (3)

This subsection provides that a licence under the Bill is exempt from legal proceedings. This means that legal proceedings against a licence will have no legal force.

The provision should be read in the context of subsection (1). Thus, the provision does not

reflect an assessment of the possibility of bringing a licence before the courts, for example to test its validity or effects.

In this context, legal proceedings only means debt enforcement proceedings. Accordingly, the provision establishes that a creditor will not be able, through the agency of the courts, to take over and become a licensee under a licence under the Bill.

To section 70

To subsection (1)

This subsection provides that a licensee's merger with another company will have no legal force in relation to the licensee's licence under the Bill and the Bill, unless such merger has been approved by the Government of Greenland.

One of the purposes of the subsection is thus to ensure that the Government of Greenland is able to make sure that before any such merger, it is ensured that the basis for meeting the licensee's obligations under the licence is not reduced as a result of the merger.

The subsection also means that the Government of Greenland is able to ensure that the basis for qualified operation of the mineral activities is not reduced as a result of the merger.

To subsection (2)

This subsection provides that a licensee's demerger into two or more companies will have no legal force in relation to the licensee's licence under the Bill and the Bill, unless such demerger has been approved by the Government of Greenland.

One of the purposes of the subsection is to ensure that the Government of Greenland is able to make sure that before any such demerger of the licensee company into two or more companies, it is ensured that the basis for meeting the licensee's obligations under the licence is not reduced as a result of the demerger.

The subsection also means that the Government of Greenland is able to ensure that the basis for qualified operation of the mineral activities is not reduced as a result of the demerger of the licensee company into two or more companies.

To subsection (3)

This subsection provides that the Government of Greenland may set terms for the approval of a merger or demerger under subsection (1) or (2), including terms for the licensee's fulfilment

of the requirements to a licensee under the licence at the effective date of the merger or demerger and for the duration of the remainder of the licence period.

One of the purposes of the subsection is to ensure that the Government of Greenland is able, among other things, to take into account and set terms concerning economic matters and matters relating to direct and indirect taxes and that the Government of Greenland may refuse a merger or demerger under subsection (1) or (2) if that may lead to adverse effects in terms of direct or indirect taxes for the Greenland Self-Government and society. This will typically only be the case for speculation in the transfer of taxable profits from Greenland to abroad or for speculation in the transfer of tax losses from abroad to Greenland.

To section 71

To subsection (1)

In general, under the general conflict of laws rules, the licence, activities performed under the licence and matters in relation thereto are subject to and governed by the Bill and other Greenland law and Danish law as applicable in Greenland from time to time. However, the proposed subsection is intended to ensure that the licence, activities performed under the licence and matters in relation thereto will not, by reason of other circumstances, become subject to or governed by the laws of a country other than Greenland law and Danish law as applicable in Greenland from time to time.

It follows from the proposed provision that the licence, activities performed under the licence and matters in relation thereto are subject to and governed by the provisions set in the Bill, including also provisions set pursuant to the Bill. This means that all matters concerning mining activities and matters in relation thereto, etc. which fall within the scope of the Bill are subject to and governed by the Bill and other Greenland law and Danish law as applicable in Greenland from time to time.

To subsection (2)

This subsection establishes that any dispute concerning the licence, activities performed under the licence or matters in relation thereto, including, among other things, disputes relating to approvals, agreements and guarantees, etc. must be determined in accordance with the Bill and other Greenland law and Danish law as applicable in Greenland from time to time.

The subsection applies regardless of whether the dispute is brought before the ordinary courts or an arbitration tribunal.

The proposed provision is intended to ensure that any dispute concerning the licence,

activities performed under the licence or matters in relation thereto will be determined in accordance with Greenland law and Danish law as applicable in Greenland from time to time and with regard being had to special conditions prevailing in Greenland, including special conditions concerning the mineral area under the Bill.

To section 72

It follows from section 63 of the Danish Constitution on the right to bring an administrative decision before the courts that the courts are entitled to adjudicate on any issue concerning the jurisdictional boundaries of administrative authorities. In general, such right to bring a decision before the courts only concerns questions of law. This means that, in general, the courts will only test if the decisions of the competent administrative authority, including its application of the law etc., are in compliance with applicable law. This means that the courts will generally not concern themselves with whether a decision or other matter from the competent administrative authority is appropriate or reasonable, and the courts will generally not concern themselves with how legitimate interests have been balanced by the competent administrative authority, either.

Thus, for example, the courts may take a position on the issue of whether an administrative authority has the necessary statutory authority for its decisions etc., including whether the decisions etc. of an administrative authority fall within the scope of the contents and scope of a rule of law. The courts may also take a position on the issue of whether a decision etc. has been made in compliance with general rules and principles of administrative law, including on legitimacy, proportionality and equal treatment.

Accordingly, the proposed provision applies to a dispute regarding a statutory or discretionary decision made by the Government of Greenland in relation to the licence, activities or matters in connection with the licence.

To section 73

This subsection concerns the right to bring some disputes between the licensee and the Government of Greenland before an arbitration tribunal. Licences granted under the Bill may provide that any disputes concerning the performance of obligations under the licence may be brought before an arbitration tribunal for final and conclusive determination.

The provision aims at ensuring that any disputes will be resolved quickly and by persons possessing special expertise in the area. The intention is to ensure that, based on the authority provided by the provision, specific terms may be set in the provision to govern how any such arbitration proceedings will be carried out, including the composition of the arbitration tribunal and its competence, procedure, etc.

The decision of the arbitration tribunal will be final and conclusive and cannot be appealed.

Decisions which must be determined by the regulatory authority under the Bill cannot be brought before an arbitration tribunal, see section 63 of the Danish Constitution concerning the right to bring administrative decisions before the courts. Accordingly, an arbitration clause can only concern private law disputes.

This subsection provides a general time-limit of one year for decisions to be brought before an arbitration court. The choice of a time-limit of one year is intended to ensure that there are simple and clear rules in this regard. The Bill is a re-enactment of the legal position provided under the Mineral Resources Act.

To section 74

This subsection provides that any disputes between the licensee and the Government of Greenland arising, by way of example, after the termination of a licence must still be resolved in accordance with the provisions of sections 72 and 73. Such disputes may concern matters and obligations which survive the termination of a licence.

To section 75

To subsection (1)

This subsection provides that the Government of Greenland may grant an approval to a licensee under a licence to export minerals from Greenland. Section 14(3) of the Bill defines what is meant by "export approval" for the purposes of the Bill. Under the provision, an approval may be subject to specific terms.

The provision is a general authorisation of the Government of Greenland to regulate which minerals may be exported from Greenland subject to an export approval granted by the Government of Greenland.

Export of minerals from Greenland is subject to a relevant approval to the extent that the minerals have been exploited in Greenland or originate from samples taken in Greenland.

The Government of Greenland may also set terms to the effect that export of minerals from Greenland is subject to an export approval, even if the minerals in question have been lawfully exported from Greenland in the past. Thus, the Government of Greenland may set terms to the effect that all export of minerals from Greenland is subject to an export approval. This also applies if the minerals are in regular circulation between Greenland and one or more

other countries.

An approval under this subsection is only available to a party who is a licensee under a licence under the Bill. However, an export approval under subsection (2) may also be granted to a party who is not a licensee. Reference is made to the provision in subsection (2) and the relevant explanatory notes.

To subsection (2)

This subsection allows a party other than the licensee to export from Greenland any minerals which have been exploited in Greenland or originate from samples taken in Greenland. An approval will be granted as a separate export approval. Section 14(3) of the Bill defines what is meant by "export approval" for the purposes of the Bill.

An approval may be subject to specific terms.

The provision is a general authorisation of the Government of Greenland to regulate which minerals that have been lawfully exploited in Greenland or originate from samples taken in Greenland may be exported from Greenland subject to an export approval granted by the Government of Greenland to a party other than the licensee.

To section 76

To subsection (1)

This subsection allows the Government of Greenland to set specific rules on minerals, including on processing, storage, depositing, transport, trading, export, import and certification. The subsection clarifies that the Government of Greenland may also set terms and not simply provisions.

By way of example, the subsection allows the Government of Greenland to make quality requirements etc. with regard to processing of foreign minerals in Greenland and processing of Greenland minerals which are processed by parties other than licensees under the Bill.

Furthermore, the subsection allows the Government of Greenland to set provisions on storage and depositing of minerals and transport, trading, import and export of minerals. For example, rules may be set to the effect that the import of minerals is subject to an approval from the Government of Greenland in order to ensure that knowledge of the imported minerals can be registered and accumulated.

In addition, the provision also allows the Government of Greenland to set rules on

certification of minerals. For example, such rules may provide that a certificate of origin must be issued for gemstones. Such certificate may be combined with the Kimberley Process Certification Scheme (the KPCS), which only concerns rough diamonds. In order to market future cut diamonds from Greenland in a more targeted manner, for example, a certification system may be established for cut diamonds.

A certificate of origin may apply to all minerals, including in particular if it may add value to the final product.

The Government of Greenland may set provisions as stated above in one or more executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals. Reference is made to section 16 of the Bill and the relevant explanatory notes.

To subsection (2)

This subsection ensures, among other things, that the Government of Greenland may set provisions to the effect that processing of gemstones is subject to an approval.

For example, the subsection may be applied to ensure that enterprises engaged in processing of and trading in minerals have the proper qualifications. The subsection may also be applied to maximise the benefit derived by society from mineral activities.

The Government of Greenland may set provisions as stated above in one or more executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals.

Reference is made to section 16 of the Bill and the relevant explanatory notes.

To subsection (3)

It follows from this subsection that after setting provisions or terms under subsection (2), the Government of Greenland is authorised to grant an approval as mentioned in subsection (2) and set provisions or terms for such approval.

To section 77

To subsection (1)

This subsection lists four required elements of a mining plan (without limitation).

In general, the existing exploitation plans and exploitation plan approvals under the Mineral Resources Act describe these and other matters. The provisions of the Bill thus continue the existing practice concerning exploitation plans and their approval. However, an exploitation plan is referred to as a mining plan in the Bill.

To subsection (2)

It follows from this subsection that the Government of Greenland must approve a mining plan for a licensee's exploitation activities, including the organisation of production and the facilities in this regard, before the licensee begins to perform exploitation and measures in relation to such exploitation. The subsection thus provides rules on prior approval of exploitation plans by the Government of Greenland.

In connection with the approval of a mining plan, the Government of Greenland must ensure that the measures will be performed in a sound manner as regards technical aspects and with regard to health and safety, environmental protection and social sustainability and that such measures are performed with the least possible waste of minerals.

The Government of Greenland may decide to refuse an approval to the extent that the refusal is legitimately justified, including by technical aspects, health and safety aspects, environmental aspects or aspects concerning resource utilisation and social sustainability, see also section 1(2) og the Bill.

In connection with administrative processing concerning approval of plans under the provision, it is important that the Government of Greenland may decide on an adequately informed basis with a view to making an assessment of exploitation activities. Among other things, this means that in most cases by far, an environmental impact assessment (EIS) and a social impact assessment (SIA) must be made.

Part 15 of the Bill includes rules on environmental impact assessments (EIAs) and Part 16 of the Bill includes rules on social impact assessments (SIAs). Reference is made to the provisions in sections 100-102 and sections 103-105 and the relevant explanatory notes.

On its approval of a mining plan under the provision, the Government of Greenland may also, subject to specified terms, approve related activities such as establishment and operation of energy installations and infrastructure.

To subsection (3)

This subsection provides that the mining plan must be updated and amended as relevant.

An amendment of the mining plan may be required, for example, where the licensee would like to perform any not insignificant exploitation activities other than those originally approved by the Government of Greenland under subsections (1) and (2). An example of this would be the situation where the licensee would like to perform new significant exploitation activities which, relative to the approved activities, to a larger degree would result in the establishment of new or additional buildings, facilities and installations, etc. Another example would be new activities which may be of importance to matters comprised by the Bill, including activities which will be of importance to the use of local workers etc.

The provision is intended to contribute to ensuring that the mining plan will include at any time an updated description of the exploitation activities, the organisation of production and the related facilities, etc.

To subsection (4)

This subsection must be construed and applied in accordance with subsection (3).

The subsection provides that when so required by a change in circumstances based on an individual and overall assessment in each case, the licensee must prepare and submit an updated or amended mining plan as soon as possible. Such circumstances would generally be those set out in subsection (3). Moreover, when so decided by the Government of Greenland, the licensee must prepare and submit an updated or amended mining plan as soon as possible.

The licensee must also obtain the Government of Greenland's approval of the updated or amended mining plan.

The Government of Greenland may set a time-limit for the preparation of the mining plan for approval and implementation of required changes.

Like subsection (3), the provision is intended to contribute to ensuring that a mining plan includes at any time an updated description of the exploitation activities, the organisation of production and the related facilities, etc.

To subsection (5)

This subsection provides the authority for the Government of Greenland to set terms for an approval under subsection (2) or (4) pursuant to section 121. The Government of Greenland may set terms concerning, among other things, the safeguarding of health and safety aspects, environmental aspects and other relevant aspects in connection with the performance of the activities under the licence.

To section 78

To subsection (1)

It follows from this subsection that during the entire licence period, the licensee under a licence must remove facilities and buildings, etc. established by the licensee and not used by the licensee, unless otherwise approved by the Government of Greenland, and clean up and as relevant restore nature etc. in the affected areas, to the extent possible.

The subsection is intended to ensure that the licensee will meet its closure obligations by continuously performing closure, clean-up and restoration activities throughout the licence period.

To subsection (2)

This subsection provides that, on termination of operations and activities under the licence, the licensee must remove facilities and buildings, etc. established by the licensee, unless otherwise approved by the Government of Greenland, and clean up and restore nature etc. as relevant in the affected areas, see also sections 80 and 81 concerning an exploitation licence. Reference is made to those provisions and the relevant explanatory notes.

The subsection is intended to ensure that the licensee will perform complete closure, clean-up and restoration of nature etc. when terminating its exploitation activities, unless otherwise approved by the Government of Greenland.

To subsection (3)

Under this subsection, the Government of Greenland may implement the measures, etc. mentioned in subsections (1) and (2) at the licensee's expense and risk if the licensee fails to comply with an enforcement notice to implement the measures under the approved closure plan.

Under section 123 of the Bill, the Government of Greenland may issue such enforcement notices, including also for compliance with any other aspects of the Bill and provisions and licence terms set under the Bill. Reference is made to that provision and the relevant explanatory notes.

To subsection (4)

It follows from this subsection that if the licensee fails to comply with an enforcement notice issued by the Government of Greenland requiring the licensee to implement the activities and

measures, etc. mentioned in subsections (1) and (2), the Government of Greenland may issue an enforcement notice requiring other enterprises and persons to remove facilities and buildings, etc. when the relevant facilities and buildings, etc. (1) belong to the enterprises and persons concerned, (2) have been used in the performance of activities under the licence and (3) are in the affected areas. The conditions are cumulative and must all be satisfied.

The provision should be read in the context of subsections (1), (2), (3) and (5). Reference is made to those provisions and the relevant explanatory notes.

The provision means that if the licensee fails to comply with its obligations to remove from the affected areas, for example, any machinery or equipment which is used in the performance of activities under a licence and if the machinery or equipment in question is owned by a party other than the licensee, the Government of Greenland may also issue an enforcement notice requiring the owner to remove the machinery or equipment. This applies regardless of whether the machinery or equipment is owned by, for example, a subcontractor working in the licence area or a leasing or rental business having only rented or leased machinery or equipment to the licensee.

The provision is intended to ensure that the area is cleaned up after licence activities to the furthest extent possible, without such clean-up having to be carried out and paid for by the Greenland authorities.

The provision does not reduce the licensee's obligations under subsection (3), and the Government of Greenland may have third-party machinery and equipment removed at the licensee's expense and risk without first issuing an enforcement notice requiring the owner of such machinery and equipment to remove it.

If the owner of, for example, machinery or equipment fails to comply with an enforcement notice to remove the machinery or equipment in question, the licensee and the owner will be jointly and severally liable for the removal of the machinery or equipment, see subsections (3) and (5).

To subsection (5)

This subsection should be read in the context of subsections (3) and (4). Reference is made to those provisions and the relevant explanatory notes.

If the owner of, for example, machinery or equipment fails to comply with an enforcement notice to remove the machinery or equipment in question under subsection (4), the licensee and the owner will be jointly and severally liable for the removal of the machinery or equipment, see subsection (3).

To section 79

To subsection (1)

This subsection is intended to give the Government of Greenland clear authorisation to retain those of the licensee's assets which represent a value and which the Government of Greenland has removed under section 78(3) until the licensee has fulfilled its obligations to the Government of Greenland.

The subsection is intended to contribute to ensuring that the licensee will perform and pay the expenses involved in the closure and clean-up of activities under a licence.

The provision should be read in the context of subsection (3) and section 78(3). Reference is made to those provisions and the relevant explanatory notes.

To subsection (2)

This subsection is intended to give the Government of Greenland clear authorisation to retain a person's or an enterprise's assets which represent a value and which the Government of Greenland has removed under section 78(5) until the person or enterprise in question has paid the expenses payable for the removal of the asset in question.

The subsection is intended to contribute to ensuring that the Treasury will recover as much as possible of the clean-up costs in the cases where assets which have been used in connection with activities under the Bill and which are not owned by the licensee are left behind.

The provision should be read in the context of subsection (3) and section 78(5). Reference is made to those provisions and the relevant explanatory notes.

To subsection (3)

This subsection should be read in the context of subsections (1) and (2). Reference is made to those provisions and the relevant explanatory notes.

The subsection is intended to give the Government of Greenland clear authorisation to seek satisfaction of its claims under subsection (1) or (2) out of the assets of the enterprise or person in question without first having to levy execution against such assets.

To subsection (4)

Before a public auction is held, the Government of Greenland must find out who the owner of the asset is and whether there are any other persons whose rights or obligations with respect to the asset must be deemed to be affected by the sale. This could be, for example, the holder of a charge over the asset in question. The Government of Greenland must consult relevant public registers and, to the extent relevant, ask the licensee or the owner of the asset.

The provision is intended to ensure that all enterprises or persons whose rights or obligations may be affected by the sale of the asset will be informed of the sale and allowed to safeguard their interests in connection with the sale.

To subsection (5)

This subsection provides that at a public auction under subsection (3), the Government of Greenland will advertise the individual assets for sale at an auction meeting or at an online auction. It is thus for the Government of Greenland to decide which auction form is assumed to provide the highest price for the asset.

The subsection further provides that if, following completion of an auction, the Government of Greenland finds that a substantially higher bid can be obtained at a new auction, the Government of Greenland may decide to hold a new auction.

To subsection (6)

This subsection allows interested parties who do not obtain full satisfaction of their rights in the asset to demand a new public auction against provision of security.

By way of example, security may be provided by way of a payment into escrow or a bank guarantee.

The provision is intended to ensure that the owner of an asset and any other party not obtaining full satisfaction of its rights in the asset will be able to safeguard their interests. The provision also contributes to ensuring that assets are sold at market value.

To subsection (7)

This subsection means that auction costs will be deducted from the sales proceeds before any other rights in the asset are satisfied.

To subsection (8)

This subsection specifies how the proceeds from the auction will be spent. The proceeds will go towards covering the following claims in order of priority:

1) Auction costs, see subsection (7).
2) The Government of Greenland's claims, see subsection (1) or (2).
3) Any other rights in the asset (e.g. charges).

Any remaining proceeds will belong to the owner of the asset.

To section 80

To subsection (1)

This subsection provides a list of seven required elements of a closure plan (without limitation). For more information on a closure plan, see section 15(2) and the relevant explanatory notes.

The closure plan must include a plan for what the licensee must do with regard to facilities and buildings, etc. established or used by the licensee and the licence area and other affected areas, and how the licensee must leave the licence area and other affected areas on the licensee's termination and closure of the exploitation, including the enterprise and activities in relation thereto.

The closure plan must also state how the licensee intends to provide security for the fulfilment of its obligations and potential obligations in relation to the closure, implementation of the closure plan and the activities and measures in relation thereto. This follows from section 82.

The existing closure plans and closure plan approvals include those and other matters. The existing practice concerning closure plans and their approval can continue under the provisions of the Bill.

The particular focus of the provision is on the safeguarding of health and safety aspects, environmental aspects and to ensure clean-up etc. in connection with the closure and termination of exploitation activities in accordance with the factors mentioned in the purpose provision of the Bill, see section 1.

To subsection (2)

This subsection provides that if the licensee plans to leave behind or transfer to other parties

any facilities or buildings etc. in the licence area or other affected areas, an approval must be obtained from the Government of Greenland.

To subsection (3)

This subsection provides that if any facilities or buildings, etc. are left behind in the licence area or other affected areas and those facilities or buildings etc. require maintenance, monitoring or other activities or measures etc. for health and safety, environmental or other reasons after the closure, the closure plan must include relevant plans to this effect, and that appropriate security must be provided therefor.

To section 81

To subsection (1)

This subsection establishes the licensee's obligation to prepare and submit a closure plan to the Government of Greenland. The closure plan must be approved by the Government of Greenland and must include the licensee's plan for its later termination and closure of mineral exploitation activities and activities in relation thereto under an exploitation licence. A mining plan must include the matters mentioned in paras 1) - 4) of section 77(1).

The provision thus provides that the licensee under an exploitation licence must prepare and submit to the Government of Greenland a closure plan which is subject to approval by the Government of Greenland.

The closure plan must be prepared, submitted and approved before the licensee begins to perform exploitation or activities in preparation therefor or in relation thereto.

To subsection (2)

This subsection specifies that the licensee must also submit the closure plan to the Government of Greenland and have obtained the Government of Greenland's approval of the closure plan no later than when the licensee submits the mining plan to the Government of Greenland and obtains the Government of Greenland's approval of the mining plan, see section 77. Reference is made to that provision and the relevant explanatory notes.

To subsection (3)

This subsection provides that the Government of Greenland may set terms to the effect that a licensee must prepare and submit a closure plan which is also subject to approval by the Government of Greenland, in connection with activities other than mineral exploitation

activities.

The provision is intended to ensure that in connection with extensive activities which are not related to mineral exploitation, the licensee will carry out relevant and sufficient clean-up when terminating the activities, and to allow the Government of Greenland to demand financial security for the licensee's fulfilment of its obligations in this regard.

Terms requiring the licensee to prepare a closure plan will only be set in connection with applications for activities which last more than one year or which will require an extensive or financially burdensome clean-up effort.

To subsection (4)

This subsection provides that the closure plan must be updated and amended as relevant.

An amendment of the closure plan may be relevant, for example, if the licensee would like to perform any not insignificant exploitation activities other than those originally approved by the Government of Greenland. An example of this would be the situation where the licensee would like to perform new exploitation activities which, relative to the approved activities, to a larger degree would result in the establishment of new or additional buildings, facilities and installations, etc. Another example would be activities which may be of importance to matters comprised by the Bill, including activities which will be of importance to the use of local workers etc.

The provision is intended to contribute to ensuring that the closure plan will include at any time an updated description of the exploitation activities, the organisation of production and the related facilities, etc.

To subsection (5)

This subsection must be construed and applied in accordance with subsection (4).

The subsection provides that when so required by a change in circumstances based on an individual and overall assessment in each case, the licensee must prepare and submit an updated or amended closure plan as soon as possible. Such circumstances would generally be those set out in subsection (3). Moreover, when so decided by the Government of Greenland, the licensee must prepare and submit an updated or amended mining plan as soon as possible.

The licensee must also obtain the Government of Greenland's approval of the updated or amended closure plan.

The Government of Greenland may set a time-limit for the preparation of the closure plan for approval and implementation of required changes, including with regard to the provision of security.

Like subsection (4), the provision is intended to contribute to ensuring that a closure plan includes at any time an updated description of relevant matters.

To subsection (6)

This subsection provides that the Government of Greenland may set terms for an approval as mentioned in subsection (1), (3) or (5) under section 121. Among other things, the Government of Greenland may set terms on the safeguarding of health and safety aspects, environmental aspects and other relevant aspects after the termination of operations, including terms on monitoring for a period or other measures after closure.

Monitoring for a period after the closure would be relevant, for example, in cases where a licensee leaves behind facilities etc. in the area. In such cases, for example, the Government of Greenland may set terms for an approval to the effect that the licensee must maintain and monitor the facilities which have been left behind for a period after the closure.

To section 82

To subsection (1)

This subsection should be applied and construed in accordance with sections 80 and 85 of the Bill on the required elements of a closure plan and the licensee's obligation to provide security. Reference is made to those provisions and the relevant explanatory notes.

To subsection (2)

This subsection specifies that the closure plan must provide a description of how the licensee is to provide security under section 85. Reference is made to that section and the relevant explanatory notes.

The purpose of the provision is to ensure that the closure plan includes provisions concerning the licensee's provision of security and also that the closure plan includes a detailed description of the economic basis for the fulfilment of the licensee's obligations concerning the closure, the implementation of the closure plan and the activities and measures in relation thereto.

To subsection (3)

This subsection specifies that the provisions of the closure plan on the licensee's provision of security for the fulfilment of its closure obligations and the security provided by the licensee are subject to approval by the Government of Greenland.

To subsection (4)

This subsection specifies that the licensee must update the provisions on security in the closure plan and provide security according to the amended provisions when so required by a change in circumstances.

To subsection (5)

This subsection provides the authority for the Government of Greenland to set terms for an approval as mentioned in subsection (3) or (4) under section 121. Reference is made to the provision in section 121 and the relevant explanatory notes.

To section 83

To subsection (1)

This subsection reflects the fact that there may be periods during a licence period when the continued performance of an exploitation activity would be loss-making. An example would be due to varying mineral prices and market conditions. In such cases, it cannot be ruled out that prices and market conditions may pick up so as to restore the project's profitability. It is thus appropriate to ensure that it is possible to suspend the exploitation activities for a period of time with a view to subsequently resuming the activities where a final discontinuation (closure) of the activities is not desired.

It could also be due to temporary difficulties requiring the activities to be suspended for a period of more than 60 calendar days.

The provision includes suspension of exploitation activities under an exploitation licence and may only be relied on when exploitation activities have commenced.

According to the provision, a suspension of the exploitation activities is subject to approval by the Government of Greenland. An approval must be given for purposes of safeguarding, among other things, safety and maintenance in the period of suspension and ensuring the implementation of the closure plan if it turns out later that the activities are not resumed.

An approval may be granted for up to two years at a time. A renewed approval may be granted on changed terms. This means that the original terms for the suspension of the exploitation activities may be changed, if so dictated by circumstances.

To subsection (2)

This subsection provides that the Government of Greenland may set terms for an approval under section 121. An approval is intended to ensure, among other things, that the licensee maintains, secures and monitors facilities and buildings, etc. while the exploitation activities are suspended and that the closure plan mentioned in section 80 can be implemented if the exploitation activities are not resumed. An approval is also intended to ensure that plans for health, safety, environmental protection, etc. are adapted to the suspension of the exploitation activities and any subsequent discontinuation of the exploitation activities.

By way of example, the Government of Greenland may also set terms to the effect that the licensee must perform exploration activities in the period when the exploitation activities are suspended.

Terms will be set for the approval of the suspension of exploitation activities only to the extent necessary to ensure the matters mentioned. If the activities are suspended only briefly due to temporary practical difficulties which make it impossible to perform planned activities, no terms will typically be set for the approval.

To section 84

This provision establishes that if a suspension of activities under section 83 has lasted at least six years or if the terms of the approval of the suspension are not complied with, the Government of Greenland may issue an enforcement notice requiring the licensee to implement the closure plan mentioned in section 80. Reference is made to that provision and the relevant explanatory notes.

To section 85

To subsection (1)

It follows from section 82(2) of the Bill that a licensee must provide security for the fulfilment of its obligations and potential obligations in relation to the closure, implementation of the closure plan and the activities and measures in relation thereto.

This subsection provides the authority for the Government of Greenland to set terms to ensure

that the licensee under a licence will fulfil its obligations concerning the licence and the activities under the licence.

Under subsection (2), the Government of Greenland may set specific provisions on how such security is to be provided.

The terms governing the provision of security will be set with due regard to the operations in question and the scope and nature of the expected measures in connection with the performance of the activities etc. in the licence period and the discontinuation of operations. In general, the nature of the security to be provided will be subject to discussion with the licensee.

The purpose of the provision is to make it possible to set terms to ensure that the licensee's obligations are fulfilled while, at the same time, the terms governing the performance of the activities are not impaired to any decisive degree. Accordingly, the terms which are set under the provision will have to be formulated after balancing the interests in having the obligations performed and the interests in having the mineral projects realised.

To subsection (2)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the provision of security under subsection (1).

The Government of Greenland may set provisions and terms on all relevant matters to the extent that such provisions and terms are consistent with the purposes of the Bill as stated in section 12 and other provisions.

For one thing, the Government of Greenland may set specific provisions on the provision of security in relation to mineral activities and matters in relation thereto in executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals.

Reference is made to section 16 of the Bill and the relevant explanatory notes.

For example, the Government of Greenland may set provisions and terms as to which kinds of collateral will be acceptable and which terms will apply to the provision of security.

To section 86

To subsection (1)

This subsection must be construed and applied in the context of section 85(1) of the Bill. The provision in section 85(1) provides that the Government of Greenland may set provisions and terms to the effect that the licensee under any licence granted under the Bill must provide and maintain security for the performance of its obligations in relation to the licence and the activities under the licence.

The subsection imposes an obligation on the licensee to update and adjust the security provided as and when relevant.

By way of example, it would be relevant in cases where a licensee under an activity plan approval granted obtains approval of an amended activity plan which requires the establishment of new or additional buildings, facilities and installations, etc. In such case, it would be relevant to increase the security provided to also cover such buildings, facilities and installations, etc.

It would also be relevant in cases where a licensee stops using one or more buildings and facilities, removes them and therefore wants the collateral provided to be reduced to a lower amount than before.

Under the provision, the Government of Greenland is also required to assist in updating and adjusting the security provided to the extent relevant. The Government of Greenland is thus required, among other things, to release the collateral in whole or in part if the conditions of release have been met.

Moreover, the provision should be construed and applied in the context of section 82(2) and (3) of the Bill. It follows from section 82(2) that the licensee under an exploitation licence must provide security for the performance of its obligations and potential obligations in relation to the closure, the implementation of the closure plan and the activities and measures in relation thereto under section 85. The provision of section 82(4) specifies that a licensee is required to update the provisions on security in the closure plan and provide security according to the amended provisions when so required by a change in circumstances.

To subsection (2)

This subsection must be construed and applied in accordance with subsection (1).

This subsection provides that, as soon as possible, the licensee must adjust the provision of security and obtain the Government of Greenland's approval of the adjusted security provided, when rendered necessary by changed circumstances. Such changed circumstances are generally those set out in subsection (1). Furthermore, as soon as possible, the licensee must adjust the security provided and obtain the Government of Greenland's approval of the adjusted security provided if so decided by the Government of Greenland.

The provision is intended to contribute to ensuring that the security provided by a licensee under section 85 at any time is updated so as to reflect the licensee's obligations under the Bill, provisions and terms set under the Bill, the licence, activity plans and the approvals of such plans.

The Government of Greenland is also required to assist in updating and adjusting the security provided to the extent relevant. The Government of Greenland is thus required, among other things, to release the collateral in whole or in part if the conditions of release have been met.

The provision establishes that any adjustment of the security provided is subject to approval from the Government of Greenland.

To subsection (3)

This subsection must be construed and applied in accordance with subsections (1) - (2).

The provision is intended to contribute to ensuring that the security provided by a licensee under section 85 at any time is updated so as to reflect the licensee's obligations under the Bill, provisions and terms set under the Bill, the licence, activity plans and the approvals of such plans.

To subsection (4)

For one thing, the Government of Greenland may set specific provisions on the provision of security in relation to mineral activities and matters in relation thereto in executive orders. The Government of Greenland may also set terms in this regard as terms in or standard terms of licences and approvals. Reference is made to section 16 of the Bill and the relevant explanatory notes.

To section 87

This section governs environmental protection, including climate protection and nature conservation, in connection with mineral activities and is to a wide extent a consolidation and thus re-enactment of the environmental protection provided for in sections 51, 55 and 59 of

the Mineral Resources Act.

To subsection (1)

This subsection specifies that in order to safeguard human living conditions and ecological cycles, land and natural resources must be exploited in the context of sustainable development. This provision is thus based on the growing recognition that environmental problems are not merely local and well-defined but rather global, diverse and complex. The subsection thus prepares the ground for environmental policy which is based on a holistic view of human interaction with nature, from the exploitation of minerals, through production and consumption, to waste disposal.

The Bill also aims to protect the climate and nature so that society can develop on a sustainable basis, respecting the climate and its impact on human living conditions and the conservation of animal and plant life.

To subsection (2)

The proposed subsection specifies the Part's primary objects of protection. The wording of this subsection is largely based on internationally recognised principles, which are also reflected in the wording of the purpose provision of the Marine Environment Act.

It is proposed to provided that the provisions of this Bill on environmental, climate and nature protection aim to prevent, reduce and control pollution and other impacts on the environment, climate and nature from activities which may directly or indirectly endanger human health, harm animal or plant life or natural resources above or below ground or in the sea or subsoil, interfere with the legitimate use of land, sea, subsoil or natural resources, adversely affect human living conditions or impair recreational resources or activities.

To subsection (3)

The proposed subsection specifies the considerations to be taken into account in the administration of the Act.

Para. 1) specifies the primary aims of the Part. According to para. 1), pollution of the sea, seabed, subsoil, water, air and harmful effects on the climate, vibration and noise are to be prevented, reduced and controlled.

In order to prevent and reduce resource waste, see para. 2), and pollution and other harmful effects on the environment, and thus create a better basis for sustainable development, it is proposed in para 3) that the promotion of cleaner technology should be an objective in itself

in the administration of the Act. Cleaner technology can be defined as modified production processes, raw materials, inputs and products that reduce resource consumption and prevent pollution, not only in the production process but also downstream in the product cycle.

Therefore, treatment measures, which have been the traditional way of tackling pollution problems, are not comprised by the term "cleaner technology". The treatment of wastewater and air has been shown to cause problems in the landfilling of residues, replacing one pollution problem with another. The aim in para. 4) to promote recycling and reduce problems associated with waste disposal (including the problems posed by the volume of waste itself) is also based on the life-cycle approach and is thus closely linked to the objective of promoting cleaner technologies. For more details, see also the explanatory notes to section 88(1).

To section 88

This section is a re-enactment of section 52 of the Material Resources Act and governs the matters to which regard must be had in the application and administration of the provisions of the Bill on environmental, climate and nature protection.

To subsection (1)

This subsection establishes that in the application and administration of the provisions of this Bill, regard must be had to best available techniques.

Best available techniques means the most effective and advanced stage in the development of activities and methods of operation and the practical suitability of the technique for preventing or, where that is not practicable, generally reducing emissions and other effects on the environment as a whole.

This is understood to mean:

Technique: both the technique used and the way in which facilities are designed, built, maintained, operated and decommissioned.

Available: Developed on a scale which allows the technique in question to be used in the relevant industrial sector under economically and technically feasible conditions, taking into account the costs and advantages, wherever the technique is produced or already used, provided that the licensee can dispose of the technique on reasonable terms.

Best: The most effective technique for achieving a high general level of protection for the environment as a whole.

The principle of cleaner technology, which aims to reduce unnecessary resource use and waste through preventive action, is not contradictory to clean-up measures. Clean-up solutions are – and will to a significant extent continue to be – necessary elements of environmental protection. However, the principle expresses the need for priority-setting from an overall ecological and socio-economic perspective.

It is essential for the individual company to be able to see its current situation in relation to the environmental requirements, and to be able to plan its investments with the greatest possible certainty that future requirements will also be known.

Furthermore, in applying the cleaner technology principle, maintenance of the international competitiveness and development potential of enterprises must necessarily be taken into account when setting requirements under this Bill.

These general considerations and principles for the administration of this Bill will apply both to specific decisions under this Bill, to the establishment of guidelines and standards as a framework and guideline for the practice of the Government of Greenland, and to the setting of general provisions under this Bill.

To subsection (2)

This subsection concerns principles for assessing the extent and nature of pollution prevention and response measures.

To section 89

Except for certain linguistic and editorial changes, this section is a re-enactment of section 53(1) and (2) of the Mineral Resources Act and provides rules on pollution in connection with activities comprised by the Bill.

To subsection (1)

This subsection provides that any person who intends to commence activities comprised by the Act which may cause pollution must choose such a site for performing the activities as to minimise the threat of pollution. In choosing the site for performing the activity, regard must be had to the nature of the area, including the present and planned future use. Regard must also be had to the possibilities for appropriate disposal of wastewater, waste and other polluting substances and materials.

The proposed location principle implies that a polluting activity should be located in an environment that is robust to pollution and that sensitive areas should be kept as free as

possible from pollution impacts.

To subsection (2)

This subsection provides that any person who intends to commence, commences or performs activities comprised by the Act which may cause pollution must take measures to prevent and respond to such pollution and must plan the establishment, organisation and operation of the activities in such a way as to minimise pollution.

The proposed provision implies that a polluting enterprise must take the necessary pollution control measures and organise its operations in such a way as to minimise pollution. The provision is to be viewed in the context of section 9 of the Bill.

To subsection (3)

This subsection provides that any person who intends to commence, commences or performs activities comprised by the Act which may cause pollution must ensure that pollution, emissions, waste generation and resource use are limited as far as possible by the choice, establishment and organisation of the facilities, including machinery, equipment and any accommodation facilities.

The subsection specifies that the same must be ensured in the organisation of operations, including in the choice of exploration processes, exploitation processes, use processes, work processes, raw materials, substances and materials for use in operations and emergency response and pollution control procedure.

To section 90

This section elaborates on section 88(1) and (2) of the Bill and the location and pollution control principles of section 89 and is a re-enactment of section 53(3) - (5) of the Mineral Resources Act.

To subsection (1)

This subsection establishes that where an enterprise or person has obligations under the Act relating to environmental protection or the prevention, reduction or control of pollution, such enterprise or person must, in discharging such obligations, ensure and promote the use of the best available techniques and the best practice pollution control measures to the extent that it is technically, practically and economically feasible for the enterprise or person in question to do so.

Reference is made to the explanatory notes to sections 88 and 89 of the Bill.

To subsection (2)

This subsection provides that where an enterprise or person is required under the Act to ensure that environmental risks are identified, assessed and reduced as far as is reasonably practicable, such enterprise or person must also ensure and promote the use of best available techniques and the best practice pollution control measures in relation to environmental protection, in so far as this is technically, practically and economically feasible for the enterprise or person concerned.

Reference is made to the explanatory notes to subsection (1) and sections 88 and 89 of the Bill.

To subsection (3)

This subsection establishes that the obligations under subsection (2) also apply in a number of situations.

Under para. 1), the obligations apply where an enterprise or person is required to ensure that another party plans and performs work or other activities so that environmental risks are identified, assessed or reduced to the extent reasonably practicable.

Under para. 2), the obligations apply where an enterprise or person is required to ensure supervision of another party planning and performing work or other activities so that environmental risks are identified, assessed and reduced to the extent reasonably practicable.

Under para. 3), the obligations apply where an enterprise or person is required to contribute to the identification, assessment and reduction of environmental risks to the extent reasonably practicable.

Under para. 4), the obligations apply where an employer or other undertaking or person is required to ensure that an employed person receives necessary training and instruction to carry out the work so that environmental risks are identified, assessed and reduced to the extent reasonably practicable.

Under para. 5), the obligations apply where an enterprise or person is required to ensure that environmental risks are eliminated or reduced.

Finally, under para. 6), the obligations apply where an enterprise or person is required to make sure that facilities, installations, ships or other vessels, including the structure,

arrangement and equipment, etc. thereof, are in an environmentally sound state of repair and condition.

To section 91

This section concerns matters to which the Government of Greenland will have regard when deciding whether to grant approval for an activity or the establishment and operation of facilities comprised by the Act.

According to the proposed section, the Government of Greenland will have particular regard to the need to avoid impairment or other negative impact on the climate when deciding whether to grant approval for an activity or the establishment and operation of a facility comprised by this Bill. The Government of Greenland will, among other things, have regard to the need to avoid impairment of nature and the natural habitats and habitats of species in designated national and international nature conservation areas and interference with the species for which the areas have been designated.

National and international law applicable in Greenland determines which areas are national and international nature conservation areas and which national and international rules apply to such areas.

To section 92

This section establishes the consequences of an activity or facility comprised by the Act being likely to have a significant impact on the environment, climate and nature.

To subsection (1)

This subsection proposes that where an activity or facility referred to in section 91 is likely to have a significant impact on the climate, an approval may be granted only on the basis of an assessment of the impact of the activity or facility on the climate. The proposed subsection also requires that the public and the authorities and organisations concerned have had an opportunity to express their views on the matter.

It is proposed to provide that the assessment must be made in accordance with the provisions of Part 15 on environmental impact assessments (EIA).

To subsection (2)

This subsection proposes that where an activity or facility referred to in section 91 of the Bill is likely to have a significant impact on a designated national or international nature

conservation area, an approval may be granted only on the basis of an assessment of the impacts of the activity or facility on the site, taking into account the site conservation objectives.

If deemed necessary by the Government of Greenland, the public must be consulted on the assessment of the impacts on the site before the approval is granted. This could be done in connection with consultation on the EIA report. It will depend on an individual assessment in each case whether an assessment of the impacts on the site must go out for consultation. This may depend, among other things, on the extent of the impacts and whether an EIA is prepared at the same time.

In many cases, it will be relevant to make an environmental impact assessment before granting an approval for an activity or facility. This provision must be viewed in the context of the provisions on EIAs in Part 15 of the Bill. The provision aims at ensuring that an assessment of the impacts of the project on the site is made, taking into account the site conservation objectives. Such an assessment would not normally be made as part of an EIA.

It is proposed to provide that national and international law applicable in Greenland determines which areas are national and international nature conservation areas and which national and international rules apply to such areas.

To subsections (3)-(4)

Under the proposed subsections, an approval may in the situations referred to in subsections (1) - (2) be granted only if

1) the activity or facility does not adversely affect the integrity of a national or international nature conservation area; or
(2) important public interests, including interests of a social or economic nature, make it necessary to perform the activity or to establish and operate the facility, but see subsection (4).

If an impact assessment shows that the project will not harm international nature conservation sites, the project can be approved immediately, provided that other relevant conditions are met.

If, on the other hand, implementation of the project is deemed to have a significant negative impact on the area, the project may be approved only if there are important public interests, including social or economic interests, which make it necessary to implement the project, because the project is considered to be of vital importance for the country or the region and because alternative locations for the project are not possible.

The priority of social interests referred to in subsection (3) must in any case be accommodated within the international legal obligations by which Greenland is bound in relation to the designation of an area as a national or international nature conservation area. An approval concerning a protected area designated by law must not go beyond what is allowed by environmental protection legislation.

To subsection (5)

It is proposed to provide that the Government of Greenland will set appropriate compensatory measures, including terms for the approval, where an approval is granted under subsection (3) or subsection (4).

Under the proposed subsection, the costs of any compensatory measures must be borne by the applicant.

If an approval is granted under the proposed subsection (3) or under subsection (4), even if a significant negative impact on the area is identified, appropriate compensatory measures must be provided for. This may, for example, include imposing on the applicant an obligation to take specific measures to compensate for the negative environmental impacts by using the best available techniques and best available practices in construction, operation and maintenance, designating alternative nature conservation areas or implementing hunting restrictions, operational restrictions, etc. The determination of appropriate compensatory measures will depend on a case-by-case assessment and will be made within the framework of the proportionality principle.

To section 93

It is proposed to authorise the Government of Greenland to set specific provisions on environmental, climate and nature protection, including in particular the matters referred to in sections 87 - 92 of the Bill, including the application of national or international rules, agreements or guidelines relating to environmental, climate and nature protection.

It is intended that the Government of Greenland may, on the basis of the proposed provision, supplement the provisions of sections 87-92 to the extent that this is appropriate to ensure the effectiveness of this Bill and is consistent with the purposes of the Bill.

To section 94

This section is to a wide extent a re-enactment of sections 84 and 85(2) of the Mineral Resources Act as regards environmental, climate and nature protection.

This section proposes that the Government of Greenland may, as before, set and update specific rules and regulations on matters relating to the protection of the environment, climate and nature in connection with the performance of activities.

For example, treatment facilities, transport facilities and other infrastructure established as part of exploration or exploitation activities will be located wholly or partly outside the area comprised by the licence. In this context, it is essential that the powers on which the regulatory procedure is based also apply to such facilities etc.

This section establishes that the Government of Greenland may set rules within the mineral resource area, subject to legislation within the areas relating to or relevant for the mineral resource area.

The Government of Greenland may, among other things, set provisions on the protection of the environment, climate and nature and obligations, responsibility and liability as well as on other matters relating thereto. Subject to legislation of importance to matters relating to the environment, climate or nature in connection with minerals or activities comprised by the Bill, the Government of Greenland may set such provisions whereby authority is conferred on other authorities.

To section 95

This section governs environmental responsibility and liability.

To subsection (1)

Under the proposed subsection, the responsible and liable party means the party who performs, is in charge of or controls the performance of an activity comprised by this Bill. If that party is someone other than the licensee under a licence or approval relating to the activity, the licensee is also responsible and liable for the activity. The two parties are then fully (jointly and severally) responsible and liable, as well as the responsible and liable party under the provisions of this Part.

The liability and responsibility for pollution resulting from activities comprised by the Bill and causing an actual or imminent threat of environmental damage is unconditional under the Bill and rests with the party responsible and liable for the operation of those activities.

The concept of "the responsible and liable party" is the enterprise or person, under private or public law, who operates or controls the commercial activity.

To subsection (2)

It is proposed to provide that the party responsible and liable for an activity referred to in subsection (1) which has caused or contributed to environmental damage is liable for the environmental damage. This applies irrespective of how the actual or imminent threat of environmental damage has occurred and even if the actual or imminent threat of environmental damage is accidental.

Thus, the default principle is that the party responsible and liable for the activity is considered the party responsible and liable for an actual or imminent threat of environmental damage. Therefore, absolute liability applies to an actual or imminent threat of environmental damage caused by pollution resulting from the operation of the commercial activity.

To section 96

This section governs the obligations of the party responsible and liable for an imminent threat of environmental damage and is to a large extent a re-enactment of section 64 of the Mineral Resources Act, it being proposed to divide section 64(1) of the Mineral Resources Act into subsections (1) and (2).

To subsections (1)-(2)

It is proposed to provide that the party responsible and liable for an imminent threat of environmental damage must immediately take necessary preventive measures to avert the imminent threat of environmental damage and inform the Government of Greenland of the threat and the measures taken. Under the proposed provision, the party responsible and liable for environmental damage must also immediately take any practicable measures to limit the extent of the damage and prevent further damage, and must notify the Government of Greenland of the damage and the measures.

An obligation is thus established for the party responsible and liable for actual or imminent threat of environmental damage to take without delay the necessary measures to avert an imminent threat of environmental damage and, if the damage has already occurred, to take without delay any practicable measure to limit and prevent further environmental damage.

It will therefore not necessarily be sufficient to prevent pollution or further pollution, but it will also be necessary to limit rapidly the consequences of any pollution that has already occurred, for example by preventing it from spreading. These obligations to take action may therefore require the responsible and liable party to remove the pollution as soon as possible, for example by excavation. It should be noted that the obligation to take action and the enforcement thereof presuppose that it is immediately possible for the responsible and liable

party to establish that a pollution incident has resulted in environmental damage or that there is an imminent threat of such damage.

To subsection (3)

Under the proposed subsection, the Government of Greenland supervises the fulfilment of the obligations and may issue enforcement notices for their fulfilment and the adoption of measures in connection therewith.

To section 97

This section governs the possibility for the Government of Greenland to issue enforcement notices in relation to the provisions on environmental damage, and is, except for certain linguistic changes, a re-enactment of section 65 of the Mineral Resources Act.

To subsection (1)

It is proposed to provide that the Government of Greenland may issue an enforcement notice requiring the responsible and liable party to provide information relevant to the assessment of whether an actual or imminent threat of environmental damage exists. Under the proposed subsection, the responsible and liable party may be required, among other things, to perform, at its own expense, studies, analyses, measurements of substances or materials or the like with a view to clarifying the cause and effect of any pollution found.

The Government of Greenland may order the responsible and liable party to provide the information, perform the studies, etc., at its own expense, as are necessary for assessing whether environmental damage or an imminent threat thereof exists.

To subsection (2)

It is proposed to provide that an enforcement notice may be issued notwithstanding that the responsible and liable party does not have control of the property or area where the pollution has been found. Under the proposed subsection, the enforcement notice may impose an obligation to restore the polluted property or area, etc.

Under subsection (2) of the Bill, an enforcement order may also be issued even if the responsible and liable party does not have control of the property affected by the pollution and where any studies etc. are to be carried out. This provision is necessary because the party responsible and liable for the activity which has caused the pollution does not always have control of the polluted property. In these cases, the enforcement notice should provide for the obligation to restore the property after the completion of the studies etc.

To subsection (3)

It is proposed to provide that if the responsible and liable party does not have control of the property or area, the Government of Greenland may issue an enforcement notice to the party who has control of the property or area to tolerate the responsible and liable party or others performing studies or restoring the property or area, etc.

The provisions of subsections (2) and (3) must be understood with the limitation that no enforcement notice may be issued where the enforcement notice would constitute an expropriation.

To subsection (4)

It is proposed to provide that enforcement notices under subsection (3) are binding on the party who from time to time controls the property or area where the pollution has been found.

Reference is made to the explanatory notes to subsections (1)-(3).

To section 98

This section governs decisions made by the Government of Greenland under the provisions on environmental damage and is to a large extent a re-enactment of section 66 of the Mineral Resources Act, with section 66(3) of the Mineral Resources Act being re-enacted as a separate provision under the Bill.

To subsection (1)

This subsection authorises the Government of Greenland to decide on any measures etc. in cases of actual or imminent threats of environmental damage.

To subsection (2)

It is proposed to provide that the Government of Greenland must publish the decision on the Government of Greenland's website or as otherwise appropriate. Under the proposed subsection, publication of a decision that an actual or imminent threat of environmental damage exists will be at the expense of the responsible and liable party.

To section 99

It is proposed to authorise the Government of Greenland to set specific provisions on

environmental responsibility and liability. With the proposed authority, the Government of Greenland may set specific provisions where this is appropriate to ensure the effectiveness of this Bill, where this is consistent with the purpose of this Bill.

To section 100

This section governs environmental impact assessments (EIAs) and environmental impact assessment reports (EIA reports) and is, with certain amendments, a re-enactment of section 73 of the Mineral Resources Act.

To subsection (1)

The proposed subsection implies that an approval for an activity subject to an EIA can be granted only after an assessment of the impacts on the environment of performing the activity has been made. It also follows from the proposed subsection that the activity may not commence until the EIA report has been approved by the Government of Greenland. The addition of the reference to Part 12 clarifies that approvals under the proposed Part 12 cannot be granted for activities subject to an EIA until the rules on EIA have been observed.

The provision specifies which activities are subject to an EIA, as this is considered to be more user-friendly. Before the Government of Greenland can decide whether to approve plans and activities and their closure under Part 12 of the Bill, an EIA report on the listed activities must thus be prepared.

Under the proposed subsection, the Government of Greenland may not grant approval for an activity subject to an EIA until an EIA has been carried out and an EIA report prepared.

It is proposed to provide in para. 1) that local mining activities are not subject to EIA under this Bill.

To subsection (2)

It is proposed to provide that licensees may apply for an exemption from the requirement to prepare an environmental impact assessment (EIA) and a report thereon (EIA report) prior to an approval to exploit minerals being granted. This requires the licensee to demonstrate that the exploitation will not have a significant impact on the environment.

The scope of the provision is assumed to be relatively narrow, as the Bill envisages that the exploitation of minerals will continue to be an activity subject to EIA. The provision is thus envisaged to be applied primarily in cases where, for more formal reasons, an EIA obligation arises, but where it can be demonstrated that, as a result of these reasons, the exploitation will

not have a significant impact on the environment.

To subsection (3)

Under the proposed subsection, the Government of Greenland may require an environmental impact assessment (EIA) and a report thereon are made in cases where, for example, a change or extension is likely to have a significant impact on the environment. This means, for example, that an EIA and a report thereon may be required when an activity or the operation of one of the facilities referred to in subsection (1) is to be temporarily suspended and the temporary suspension is likely to have significant (negative) impact on the environment. The same applies to the dismantling (removal) or decommissioning of one of the facilities referred to in subsection (1).

The purpose of the EIA rules is to assess the environmental impact of the activity as a whole in relation to the environmental capacity of the area. This means that otherwise identical activities may be subject to an EIA in some contexts and not in others. One of the issues is the scale of the environmental impact of the activity – both in terms of intensity and geographical scope – in relation to the other activities and vulnerability of the area. An extension of an existing facility should therefore not be assessed in isolation as a stand-alone facility in relation to critical loads and guiding thresholds. The project must be assessed in the context of the environmental impact of existing facilities. This may mean that a construction project which in isolation will not have a significant impact on the environment may still be subject to an EIA. This will clearly be the case if the existing facility already gives rise to significant environmental impacts.

Whether or not an EIA obligation applies also depends on the location of the facility in relation to the vulnerability of the geographical area. An activity will be subject to an EIA if it is likely to conflict with the land use of the area, the relative abundance of natural resources, the quality and regenerative capacity or the environmental capacity of the natural environment.

If a conflict may arise between a planned activity and the existing land use – not necessarily only for the area in question, but also in relation to neighbouring areas that could be directly or indirectly affected by an activity – this will normally give rise to a significant environmental impact and thus an EIA obligation.

For nature parks, the designation or establishment of a nature park is usually accompanied by a detailed description of its purpose. In addition, detailed planning will often be carried out, including objectives and protection interests. Activities that may hinder or impede the purpose of the nature park are likely to have a significant impact on the environment and will therefore be subject to an EIA under the criteria that the Government of Greenland intends to issue

under subsection (5). This applies regardless of whether the cause of the impact on the protected area or nature park is a direct consequence of the presence of the activity or a consequence of the operation of the activity, including more indirect impacts such as traffic to and from the activity or necessary infrastructure associated with it.

If the activity involves the construction or extension of a treatment facility to treat the wastewater, a significant environmental impact cannot be excluded and the activity may be subject to an EIA. If the activity implies that there will be a need for disposal of hazardous waste, the activity will normally require an EIA if the disposal and management of the hazardous waste cannot be achieved through already approved or legally existing waste systems, disposal methods or recycling methods. For other waste, this may also lead to an EIA obligation if disposal cannot take place within the framework of already authorised or legally existing waste systems, disposal methods or recycling methods.

An activity may give rise to pollution and nuisance for which either indicative or mandatory standards or thresholds have been set. It must therefore be ensured at the planning stage of the activity that the indicative standards and thresholds can be met.

To subsection (4)

Under subsection (4), it is the Government of Greenland which decides when an EIA and an EIA report thereon must be prepared under subsections (2) and (3). In cases where an activity is not expected to have a significant impact on the environment, the Government of Greenland may decide that an environmental mitigation assessment (EMA) must be made and an EMA report thereon be prepared in accordance with subsection (5).

It is intended that Government of Greenland, where appropriate, may refer to local or central authorities with special knowledge of, for example, the local or biological conditions in the relevant areas.

To subsection (5)

The proposed subsection clarifies that, in cases where an activity is not considered to have a significant impact on the environment and is therefore not found to be subject to an EIA under subsections (2) and (3), the Government of Greenland may determine that an environmental mitigation assessment (EMA) must be made and an EMA report thereon be prepared.

To subsection (6)

It is proposed to provide that the Government of Greenland may decide that an activity comprised by the Bill is subject to environmental approval.

The Government of Greenland may decide that an activity is subject to environmental approval in cases where the activity is comprised by the Bill but where the activity does not require an environmental impact assessment (EIA) or an environmental mitigation assessment (EMA).

The provision is thus intended to apply to mineral activities of a small-scale nature which are certain not to have a significant or other appreciable impact on the environment.

The proposed provision enables the Government of Greenland to provide transparency of the environmental aspects of such small-scale activities.

To subsection (7)

The Government of Greenland may, in accordance with subsection (7), set more detailed provisions on the criteria to be taken into account when making a decision under subsection (4).

It is proposed to also authorise the Government of Greenland to set specific provisions concerning the environmental mitigation assessment (EMA) and the criteria for such assessment under subsection (5).

Furthermore, the Government of Greenland is authorised to set specific provisions on environmental approvals under subsection (6).

To section 101

Except for certain linguistic and editorial changes, this section is essentially a re-enactment of section 74 of the Mineral Resources Act and governs specific requirements for the applicant when an approved EIA report is required under the provisions of section 100.

The EIA report is an important document that is a prerequisite for the approval of a mineral project. It must clarify the likely environmental impacts of the applicant's or the licensee's project proposal. It must also reflect the concerns and objections of affected communities and citizens. The report must contribute to the environmentally sound development of the project of the applicant or licensee.

To subsection (1)

Under the proposed subsection, the applicant and – to the extent that there is no overlap – the party responsible and liable for an activity subject to EIA must prepare and submit the EIA

report to the Government of Greenland, together with a non-technical summary of the report. The scope, form and content of the non-technical summary may be governed in more detail in the guidelines referred to in subsection (3).

To subsection (2)

This subsection specifies what the EIA report must contain.

An EIA report is intended to contribute to ensuring that the planning and administration of activities comprised by the Bill will be based on assessments of the impacts which the activities may have on Greenland's environment nationally and locally.
contribute to ensuring that the planning and management of activities comprised by the Bill are based on studies of the effects that activities may have on the Greenland's environment, both nationally and locally.

The EIA report is not only intended to include the individual environmental aspects, but also explain the interaction between the environmental impacts, the mutual effects of the environmental impacts and the cumulative effects of the environmental impacts. This is because the aim is to provide a holistic report of the environmental impacts of the activities.

The provision is supplemented by guidelines for the preparation of EIA reports for mineral exploitation in Greenland, which contain detailed criteria etc. for the preparation of EIA reports.

To subsection (3)

It is proposed to provide that the Government of Greenland may determine that additional material for the environmental impact assessment must be provided or that additional studies of specific matters must be made.

To subsection (4)

Under the proposed subsection, the Government of Greenland may set specific provisions on environmental impact assessments and the preparation and approval of EIA reports, including the material to be provided for environmental impact assessments.

To section 102

This section governs the publication of a final EIA report.

To subsection (1)

Under the proposed subsection, the Government of Greenland must publish information to this effect when an EIA report has been submitted to the Government of Greenland. The provision also implies that information must be published on the Government of Greenland website and as otherwise appropriate, for example in a national newspaper or through the electronic media.

To subsection (2)

This subsection provides that a draft EIA report and all related information, documents and data in relation thereto which are submitted to the Government of Greenland are confidential until the material submitted is posted on the Government of Greenland's website and as otherwise appropriate in accordance with subsection (1).

It is considered to be appropriate for the contents of an EIA report and information, documents and data in relation thereto which are submitted to the Government of Greenland not to become known to the public before the official submission to the Government of Greenland.

The provision is thus intended to contribute to ensuring that the licensee will be able to prepare and finish the final EIA report in peace.

In any case, the final EIA report must be sent out to public consultation, and the information, documents and data in relation thereto should subsequently be subject to public access.

To subsection (3)

This subsection provides that, during the confidentiality period, the Government of Greenland may publish general information about a confidential draft EIA report comprised by section 102 and related confidential information, documents and data which have been submitted to the Government of Greenland.

Under the subsection, before any such general information is published, the Government of Greenland must send the information to the licensee and inform the licensee that it may submit its comments and any reasoned objection to the publication of all or some of the information within a reasonable time-limit of no less than 14 calendar days. If, before the expiry of the time-limit, the licensee submits an objection to the publication of all or some of the information, the Government of Greenland will not publish the relevant information if the

licensee's interest in confidentiality is deemed to override the Government of Greenland's interest in publication of the information in question.

By way of example, the Government of Greenland's interest in publishing information of a general nature may be its interest in safeguarding public safety or a statutory duty to publish certain information. When determining whether general information under this subsection can be published although an objection has been received from the licensee, regard may be had to factors such as any commercial interest of the licensee in maintaining the confidentiality of the information, whether the publication of the information would be contrary to the rules of a stock exchange where the licensee is listed, and whether the individual licensee is identifiable in spite of the general nature of the information.

To subsection (4)

It is proposed that, notwithstanding the provisions of subsections (2) and (3), environmental data and environmental reports which the authorities deemed to be of general public interest may be published. The purpose of this is to allow for the possibility to comply with the principles expressed in the Aarhus Convention. The purpose is also to ensure that information on environmental matters of general public interest can be made available to citizens at any time.

To subsection (5)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the matters mentioned in subsections (1) - (4).

One example of such provisions and terms would be provisions or terms on the Government of Greenland's right to publish general information about a confidential draft EIA report and information, documents and data in relation thereto.

To section 103

To subsection (1)

This subsection concerns social impact assessments (SIAs).

The subsection means that activities which are comprised by the Bill and which it must be assumed may have a significant social impact may be performed only when a social impact assessment (SIA) has been made which includes an assessment of the social impact of the performance of the activities, and the Government of Greenland has approved a report thereon (SIA report).

As a starting point, activities concerning the establishment or location, operation and use of major facilities or buildings, etc. which are used in the performance of activities comprised by a licence under the Bill, including mining facilities, major processing plants, major buildings, major energy producing plants, larger and longer roads, large landing strips for planes, helicopters or other aircraft, major port facilities or major offshore facilities must be assumed to have a potential significant social impact.

The provision should be read in the context of the purpose provision of the Bill in section 1(2), which provides that mineral activities must seek to be socially sustainable. The requirement of social sustainability is intended to ensure that the development of society can take place on a sustainable basis and that the necessary measures are taken to offset the adverse effects on society while, at the same time, exploring and seeking to benefit from positive development opportunities.

According to the provision, it will not always be necessary to make a social impact assessment (SIA) and prepare a report thereon (SIA report) when performing exploitation activities. Thus, there are exploitation activities which must not be assumed to have a potential significant social impact. This would especially be the case with exploitation licences granted on the basis of small-scale licences.

According to the provision, a social impact assessment (SIA) and a report thereon (SIA report) will generally not be required for the performance of activities until a licensee has been granted a licence. However, before an exploitation licence is granted, a pre-consultation process must be made. Reference is made to section 44 and the relevant explanatory notes.

To subsection (2)

It follows from this subsection that it is for the Government of Greenland to decide if a specific case is comprised by subsection (1). To the extent that the Government of Greenland decides that a specific case under a licence is comprised by subsection (1), the licensee applying for the grant of an approval will be required to perform an SIA, prepare an SIA report and obtain the Government of Greenland's approval of the SIA report.

To subsection (3)

This subsection provides that the Government of Greenland may set specific provisions or terms on the criteria applied in the determination of whether to require in each case the performance of an SIA and the preparation of an SIA report as well as an approval thereof.

To section 104

To subsection (1)

This subsection imposes on the licensee applying for the grant of an approval an obligation to perform an SIA, prepare an SIA report and submit the SIA report to the Government of Greenland when so required under section 103.

The subsection also requires the licensee to prepare a non-technical summary of the SIA report and submit the summary to the Government of Greenland.

To subsection (2)

This subsection specifies the required elements of the SIA report.

An SIA report must contribute to ensuring that the planning and administration of activities comprised by the Bill is also based on analyses of the impacts which the activities may have on society nationally and locally. An SIA report must include a description and assessment of the impacts on social life in the communities affected, including on employment opportunities, social balance and social, cultural, religious and spiritual values and practices. Further, an SIA report must include a description and assessment of measures to ensure socially sustainable growth.

The SIA report must not only include the individual social impacts, but also describe the interaction between the social impacts, mutual effects of the social impacts and the cumulative effects of the social impacts. This is because the aim is for a 360-degree description of the social impacts of the activities.

An SIA report should include the following information:

A description of the activity or the facility etc. which the activity concerns, and a description of significant alternatives concerning the activity or facility, including the most significant alternatives examined by the licensee, and the impacts of the activity not being performed or the facility not being established and operated.

An overview of the most significant relevant alternative activities and alternative locations, if any, which have additionally been examined or considered by parties other than the licensee and which have become known during the public consultation process.

A description of the most important reasons for the licensee’s choice of alternative having

regard to the social impacts, and of the most important criteria underlying such choice.

A description of the social conditions before the performance of the activity or establishment and operation of the facility for the purpose of an assessment of foreseeable changes in social conditions with a description of the short- and long-term social impacts of the facility.

The description must include the direct impacts of the activity or facility and the indirect short- and long-term positive and negative impacts of the activity or facility. The description must also describe the methods applied by the licensee to predict the social impacts.

In addition, an SIA report should describe the measures which are contemplated with regard to avoiding, reducing and, if possible, neutralising significant negative social impacts.

The SIA report should include an overview of any difficulties (technical deficiencies or knowledge missing) that have arisen in the course of the licensee's collection or assessment of the required information and any deficiencies in the information or assessment of social impacts. Moreover, the SIA report must take a position on the aspects identified by the public or the affected authorities.

To subsection (3)

This subsection provides the authority for the Government of Greenland to require that information or documents, such as background data, for an SIA must be submitted, or that additional studies or assessments of specific matters must be made.

To subsection (4)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the process concerning the preparation of an SIA report.

One example of such provisions and terms would be provisions or terms on the contents, form or ongoing updating of the SIA report due to changes in society or other relevant aspects.

To section 105

To subsection (1)

This subsection requires the Government of Greenland to publish an announcement to this effect when a final SIA report has been submitted to the Government of Greenland.

The subsection means that the announcement must be posted on the Government of Greenland's website and as otherwise appropriate. By way of example, the announcement

could be published in a national Greenland newspaper.

The provision is intended to contribute to ensuring public involvement and access to comment.

To subsection (2)

This subsection provides that a draft SIA report and all related information, documents and data in relation thereto which are submitted to the Government of Greenland are confidential until the material submitted is posted on the Government of Greenland's website and as otherwise appropriate, see subsection (1).

It is considered to be appropriate for the contents of an SIA report and information, documents and data in relation thereto which are submitted to the Government of Greenland not to become known to the public before the official submission to the Government of Greenland.

The provision is thus intended to contribute to ensuring that the licensee will be able to prepare and finish the final SIA report in a calm environment.

In any case, the final SIA report must be sent out to public consultation, and the information, documents and data in relation thereto should subsequently be subject to public access.

To subsection (3)

This subsection provides that, during the confidentiality period, the Government of Greenland may publish general information about a confidential draft SIA report comprised by section 104 and related confidential information, documents and data which have been submitted to the Government of Greenland.

Under the subsection, before any such general information is published, the Government of Greenland must send the information to the licensee and inform the licensee that it may submit its comments and any reasoned objection to the publication of all or some of the information within a reasonable time-limit of no less than 14 calendar days. If, before the expiry of the time-limit, the licensee submits an objection to the publication of all or some of the information, the Government of Greenland will not publish the relevant information if the licensee's interest in confidentiality is deemed to override the Government of Greenland's interest in publication of the information in question.

By way of example, the Government of Greenland's interest in publishing information of a general nature may be its interest in safeguarding public safety, a statutory duty to publish

certain information or in connection with the marketing of the geology of Greenland. When determining whether general information under this subsection can be published although an objection has been received from the licensee, regard may be had to factors such as any commercial interest of the licensee in maintaining the confidentiality of the information, whether the publication of the information would be contrary to the rules of a stock exchange where the licensee is registered, and whether the individual licensee is identifiable in spite of the general nature of the information.

To subsection (4)

This subsection provides the authority for the Government of Greenland to set specific provisions and terms on the matters mentioned in subsections (1) - (3).

One example of such provisions and terms would be provisions or terms on the Government of Greenland's right to publish general information about a confidential draft SIA report and information, documents and data in relation thereto.

To section 106

To subsection (1)

Activities are notified to the Government of Greenland by submission of a presentation of ideas to the Government of Greenland. If the contemplated activity is assumed by the Government of Greenland, based on the presentation of ideas, to have a potential significant environmental impact, see section 100, or social impact, see section 103, a project description must be prepared and sent out to public pre-consultation by the Government of Greenland, see subsection (2).

To subsection (2)

This subsection establishes that the project description under subsection (1) must go out for public pre-consultation for a 35-day period before the contents of the environmental impact assessment (EIA) and/or the social impact assessment (SIA) are determined.

Public pre-consultation is the first opportunity for the public to gain an insight into and voice their proposals and concerns in relation to an applicant's or a licensee's plans to develop the presented proposal into an activity. Consultation responses to pre-consultation are important in order to ensure that the general public may contribute to shaping the activity at an early stage of the process so that any objections to or comments on the project description may be considered when planning the activity going forward.

The subsection also provides that if a public pre-consultation on an environmental impact assessment (EIA) as well as a social impact assessment (SIA) are to be carried out concerning the same activities comprised by this subsection, the two pre-consultation processes must be carried out at the same time. This also applies in cases where the activities which are likely to have a potential significant social impact and the activities which are likely to have a potential significant environmental impact only overlap to some extent.

To subsection (3)

This subsection establishes that the Government of Greenland may set specific provisions and terms on the contents of the project description.

One example of such specific provisions and terms would be provisions or terms as to which matters the project description is to describe, including, among other things, how the licensee or applicant is expected to make allowances for or try to mitigate the significant environmental and/or social impacts which mineral activities are expected to have.

To section 107

To subsection (1)

Under this subsection, the Government of Greenland must send an environmental impact assessment (EIA) report and/or a social impact assessment (SIA) report out to public consultation.

The report must describe the expected environmental and social consequences of a licensee's proposed mineral project.

Furthermore, the report must reflect any concerns and objections of the affected citizens and communities which have emerged in the course of the public consultation on the project description.

The EIA and SIA reports are intended to contribute to ensuring that a licensee's mineral project is developed in an environmentally and socially responsible and desirable manner.

It follows from the provision that if a public consultation on an environmental impact assessment (EIA) report as well as on a social impact assessment (SIA) report is to be carried out concerning the same activities comprised by the provision, the two consultation processes must be carried out at the same time. This also applies in cases where the activities which are likely to have a potential significant social impact and the activities which are likely to have a potential significant environmental impact only overlap to some extent.

To subsection (2)

A consultation period of eight weeks is the usual duration for a consultation period in Denmark, also for very large-scale projects. The subsection provides that the period will be extended if it expires on a day which is not a business day. If the consultation period expires on a Saturday, Sunday or a national holiday, the consultation period will be extended to the next business day.

Consultation material means an electronic version of the SIA report, a non-technical summary of the SIA report as well as appendices in Greenlandic and Danish and, if relevant, in English. Only when all versions have been submitted in all languages and the authorities have confirmed that formalities have been observed, when the text is correct and the report meets the other criteria which are set out in guidance notes and related statutory acts can the SIA report be sent out to public consultation. The final SIA report and the non-technical summary as well as all appendices must be submitted to the Mineral Resource Authority in Greenlandic and Danish and, if relevant, in English. The summaries must be included as part of the SIA report and as separate documents. The consultation period therefore will not start until the material has been submitted and approved in the languages stated.

Any other relevant background material to the SIA report must be posted on the company's website as from the first day of the consultation period so as to ensure that all consultation material is available to the public.

The consultation material is deemed to be available to the public when posted on the Government of Greenland's website.

To subsection (3)

This subsection is intended to provide the necessary flexibility to extend the consultation period. There may be a number of reasons why it may prove impracticable to conduct the public consultation meetings. For example, it may be necessary in connection with the sessions of the Greenland Parliament, including where a minister is required to attend a parliamentary session and therefore cannot travel. It may also be necessary due to a shortage of interpreters or rooms for the consultation meetings.

To section 108

This subsection is intended to ensure widespread participation by the community in the areas which are particularly affected by the mineral activities. Such areas will often be the towns

and villages situated most closely to the activities. It may also be towns and villages which are not situated most closely to the activities if, for example, they have some facilities which the project company is looking to use in connection with the mineral activities and which will therefore be affected by the mineral activity.

Regardless of where the mineral activity will take place, the public must be involved. The Government of Greenland is therefore empowered to decide where to hold public consultation meetings if the activities are to be performed at a great distance to towns and villages or outside the municipal boundaries.

To section 109

To subsection (1)

This subsection is intended to allow citizens to plan their participation in the local community meetings and give them time to read the material to be discussed at the local community meetings. The consultation meetings will be held during the consultation period as such, see section 107, in time for the citizens to be able to submit consultation responses.

To subsection (2)

This subsection is intended to ensure that as many citizens as possible will be notified of the consultation meetings to be held. An individual assessment will be made in each case as to other relevant media, which will depend on factors such as where the local community meetings are held.

To subsection (3)

This subsection is intended to ensure that citizens who were unable to participate in the consultation meetings can find out what went on at the meetings and the discussions that took place.

To subsection (4)

This subsection allows the participants at the meeting to take the floor at the consultation meetings and voice their views and any concerns and expectations in connection with a mineral project.

To subsection (5)

One of the purposes of appointing a moderator to take charge of the consultation meetings is

to provide the desired openness and transparency with regard to the consultation meetings.

To section 110

To subsection (1)

This subsection concerns the licensees' obligation in certain cases, as required by the Government of Greenland, to enter into an IBA.

It will be determined based on an evaluation of materiality of the impact of the project on social sustainability whether a licensee is to be required to enter into and perform its obligations under an IBA.

IBA is short for an impact benefit agreement.

In an IBA the licensee must undertake to implement measures to ensure social sustainability.

An IBA is entered into by the licensee and the Government of Greenland, and sometimes also one or more municipalities, see subsections (2) and (3). In an IBA the licensee must undertake to implement measures to ensure social sustainability.

Greenland is seeking to make the mineral industry one of the country's most important business sectors. In order to make this possible, the mineral sector must be developed in cooperation with the people of Greenland.

It is imperative that the adverse effects of a mineral project are reduced as much as possible and replaced by benefits. This can be done, for example, by requiring the licensee to implement measures with a view to securing social sustainability, including by way of involvement of local workers, establishment of arrangements to transfer and accumulate new know-how in the mineral sector, and protection of socio-cultural values and traditions in Greenland, including social, cultural, religious and spiritual values and practices of the population.

To subsection (2)

An IBA is entered into by the Government of Greenland and the licensee, but may also be entered into by the Government of Greenland, the licensee and one or more municipalities, see subsection (3).

To subsection (3)

This subsection provides that the IBA must also be entered into with a municipality if the licence area under the licence is situated within the boundaries of a municipality. The IBA must thus be entered into by the licensee and the Government of Greenland and a municipality if the licence area under the licence is situated within the boundaries of a municipality.

To subsection (4)

This subsection provides the authority for the Government of Greenland to set provisions or terms to the effect that the licensee must enter into an IBA with the Government of Greenland and one or more municipalities situated near the licence area under the licence in cases where the licence area is not situated within the boundaries of a municipality.

However, the subsection also provides that the Government of Greenland may decide that the IBA does not also have to be entered into with a municipality if, according to the Government of Greenland, the municipality's requirements concerning the negotiation, conclusion or terms of the agreement do not comply with section 111 or provisions or terms set by the Government of Greenland under section 112. One example where such decision by the Government of Greenland would be relevant would be if a municipality's requirements to the licensee's measures etc. must be deemed to be disproportionate to the impacts of the mining project on social sustainability.

To section 111

To subsection (1)

This subsection concerns the terms of the IBA.

The provision must be construed and applied in accordance with sections 1, 110 and 112. Reference is made to those provisions and the relevant explanatory notes.

This means, among other things, that the measures which the licensee undertakes to implement under the IBA must be responsible and appropriate with regard to social sustainability and contribute to ensuring that activities comprised by the Bill will result in economic and other social benefits for the Greenland Self-Government and society.

The IBA must also be negotiated and entered into in accordance with section 110 and its terms must comply with section 110. The terms of the IBA under section 94 will depend, among other things, on the type of licence and whether the licence area is situated within the boundaries of a municipality. Reference is made to that section and the relevant explanatory notes.

To subsection (2)

It follows from this subsection that an IBA under section 110 must include terms on the licensee's use of local workers and suppliers and on education and training and further education and training of local workers.

The section is intended to contribute to securing economic and other social benefits for the Greenland Self-Government and society through the use of local workers and local suppliers of goods and services and education and training and further education and training of local workers.

The purpose is to ensure that, to the greatest extent possible, local individuals and enterprises are used as workers and suppliers in the performance of activities under licences granted under the Bill.

To subsection (3)

It follows from this subsection that an IBA under section 110 may include provisions on dispute resolution before a court of law or an arbitration tribunal. To the extent, for example, that any such terms have been laid down in an exploitation licence, see section 56, the terms

of the IBA must correspond to such terms.

However, if the IBA is also entered into with one or more municipalities, see section 110(4), the terms of the licence must be amended in the IBA so as to ensure that they reflect the fact that the municipality or municipalities are also parties to the IBA and, by extension, will also be parties to any dispute arising out of the IBA.

To section 112

The purpose of this section is to ensure that the Government of Greenland has the statutory authority to set provisions and terms on all relevant matters concerning an IBA.

The Government of Greenland may set provisions and terms under section 112 as provisions in an executive order or as terms in or standard terms of licences or approvals, see section 16. Reference is made to that provision and the relevant explanatory notes.

To section 113

To subsection (1)

This subsection is largely based on the so-called ALARP principle. ALARP is short for As Low As Reasonably Practicable.

In general, the ALARP principle means that risks must be reduced to levels that are as low as reasonably practicable. The ALARP principle is a recognised and generally accepted international principle in the offshore industry. It is generally applied by the authorities of the countries with offshore activities where high priority is given to health and safety in the offshore industry. The principle is also applied in other contexts where risk assessment and risk reduction are important. Similarly, it is appropriate for the Bill to also include and apply the ALARP principle.

The subsection provides that the requirement for the licensee to reduce the risks under the ALARP principle means that all requirements, directions, and thresholds set in the Bill or legislation, and rules set under the Bill or other legislation must be complied with. Moreover, the licensee must assess whether the health and safety risks can be eliminated altogether or further reduced. This applies whether or not specific requirements, directions or thresholds have been set in the Bill or other legislation or rules set under the Bill or other legislation.

Under the provision, the licensee is required to ensure that health and safety risks are reduced as much as reasonably practicable in accordance with technical and social advances.

Moreover, the provision should be applied and construed in accordance with section 1(2) of the Bill. The provision specifies that activities comprised by licences issued under the Bill must be performed in accordance with recognised best international practice under similar conditions.

To subsection (2)

This subsection establishes that the licensee under a licence must ensure that the operation of offshore facilities takes place in accordance with the Bill, other legislation, rules set under the Bill and other legislation and provisions and terms governing the licence, and that the licensee's compliance therewith is subject to supervision.

To subsection (3)

This subsection establishes that the licensee must ensure that it is possible for contracting parties performing activities on offshore facilities to meet safety requirements and that such contracting parties also fulfil such safety requirements.

To section 114

To subsection (1)

The authority conferred on the Government of Greenland under this subsection ensures that in accordance with the purposes of the Bill as stated in section 1 and other provisions, the Government of Greenland may set provisions and terms on health and safety in respect of offshore facilities which are consistent with applicable international and accepted industry practices as and when such practices evolve.

For one thing, the Government of Greenland may set provisions and terms on the licensee's responsibilities and obligations and the responsibilities and obligations of other enterprises and persons performing activities under the licence, the licensee's preparation and submission of reports on health and safety to the Government of Greenland, health and safety management and safety and protection zones.

The Government of Greenland may further set provisions and terms concerning health and safety in relation to construction, establishment, location, operation, use, dismantling and removal of the offshore facilities and the equipment and approvals, etc., supervision, emergency preparedness, life-saving measures, training requirements, working hours of the offshore facilities.

To section 115

To subsection (1)

This subsection provides that, when not being navigated or towed, an offshore facility is generally surrounded by a safety zone.

The extent of the safety zone is set in subsection (3). See the explanatory notes to subsection (3) below.

To subsection (2)

This subsection applies to an offshore facility which is not being navigated or towed and which, based on an individual assessment in each case, is not immediately visible on the sea surface to other offshore facilities or vessels etc. Such offshore facilities must be marked with a buoy or other readily visible device approved by the Government of Greenland.

To subsection (3)

The proposed subsection specifies the extent of the safety zones set in subsection (1).

The Government of Greenland may decide to deviate from the extent of a safety zone provided under section 116(1). Reference is made to that provision and the relevant explanatory notes.

To subsection (4)

It follows from this subsection that the position of an offshore facility which is surrounded by a safety zone, see subsection (1), must be announced in Notices to Mariners or as otherwise decided by the Government of Greenland.

The Danish Maritime Authority must be informed of the position of an offshore facility to enable it to post a notice to this effect in Notices to Mariners.

Moreover, it follows from the provision that the announcement in Notices to Mariners or as otherwise decided by the Government of Greenland will be made by the licensee, unless otherwise decided by the Government of Greenland.

To section 116

To subsection (1)

It follows from this subsection that the Government of Greenland may decide to deviate from the extent of a safety zone provided in section 115(3).

It follows from article 60(5) of the UN Convention on the Law of the Sea that the breadth of the safety zones must be determined by the coastal state, taking into account applicable international standards. The safety zones must be designed to ensure that they are reasonably related to the nature and function of the offshore facilities. The safety zones surrounding them must not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorised by generally accepted international standards or as recommended by the competent international organisation.

It also follows from the provision in accordance therewith that the Government of Greenland may decide that a deviation may extend or reduce a safety zone and apply for a specific period.

Any such deviation will be announced in Notices to Mariners or as otherwise decided by the Government of Greenland. The announcement in Notices to Mariners or as otherwise decided by the Government of Greenland will be made by the licensee, unless otherwise decided by the Government of Greenland.

The provision must be applied in accordance with article 60(5) of the UN Convention on the Law of the Sea.

To subsection (2)

In accordance with article 60(5) of the UN Convention on the Law of the Sea, this subsection authorises the Government of Greenland to extend existing safety zones or establish new safety zones in situations of danger or accident which may result in personal injury or loss of human lives, serious pollution, major damage to property or a significant production stop at an offshore facility, and to the extent that this is deemed necessary to prevent, avoid or mitigate the above damaging effects.

The provision must be applied in accordance with article 60(5) of the UN Convention on the Law of the Sea.

To section 117

To subsection (1)

The requirements under this subsection concerning safety zones, see section 115, are generally intended to reduce the risk of collision between ships, barges and other marine vessels, etc. and offshore facilities and to prevent fishing and hunting tools etc. to get into contact with underwater devices.

One example of a lawful purpose under this subsection would be the licensee or the supervisory authorities granting an approval for a third party to enter the safety zone around an offshore facility.

Another legal purpose would be the authorities sailing into a safety zone around an offshore facility in connection with an inspection or tests or to carry out environmental measures in connection with pollution.

An additional legal purpose would be a vessel in distress sailing into a safety zone.

To subsection (2)

It follows from this subsection that the Government of Greenland may decide to derogate from the prohibition in subsection (1), but only where dictated by circumstances in special cases.

The Government of Greenland may set specific provisions and terms concerning derogation from the prohibition under subsection (1), including with regard to fishing and hunting. These provisions and terms may concern, for example, in which intervals and periods fishing and hunting is allowed inside a safety zone and which tools are allowed for fishing and hunting inside the safety zone.

To section 118

To subsection (1)

This subsection establishes a general rule governing the performance of activities under the Bill. Thus, the activities must be performed in a proper manner and in accordance with recognised best international practices under similar conditions. The concept of best international practices is a dynamic concept and when determining the best international practices, developments within health and safety as well as environmental protection

internationally must be taken into account. In the same way as before, generally accepted international principles, including, for example, ALARP and BAT, may aid in the determination of best international practices.

ALARP is short for As Low As Reasonably Practicable. For more details, see the explanatory notes to section 113 of the Bill.

BAT is short for Best Available Techniques.

The mineral area is generally characterised by a dynamic development. A more detailed specification of applicable standards would therefore only be a snapshot of current practices and would soon lose relevance.

To subsection (2)

The activities under the Bill must be performed appropriately as well as in a sound manner as regards safety, environmental protection, resource utilisation and social sustainability. These are the same overall principles which will be central in the administrative processing. The provision includes the interests to be safeguarded under the provisions laying down the purpose of the Bill. Reference is made to section 1 of the Bill and the relevant explanatory notes.

Among other things, safety and health include physical safety, the safety and health of employees in connection with the activities involved in the performance of mineral activities, subsoil activities or related energy activities in Greenland.

The health concept of the Bill should be interpreted broadly, and covers both health in relation to the working environment in connection with the individual activity, and the health of Greenland's population in general (public health). Under the subsection, the mineral activities must be organised with due regard to health.

Environmental protection includes general environmental considerations of importance to humans as well as animal and plant life.

Sound resource utilisation means, among other things, that any waste of resources must be avoided where possible in connection with the mineral activities and that regard must be had to short-term and long-term public interests. Such interests include, without limitation, public interests in the performance of mineral activities and exploitation of minerals, generation of activity and accumulation of experience and competences for local workers and suppliers of goods and services and generation of revenue for the Government of Greenland and local workers and suppliers of goods and services.

Sound utilisation of resources means, among other things, that any waste of minerals must be avoided where possible and that exploitation activities must be performed in accordance with good international practices to achieve the greatest possible utilisation of the mineral resource concerned.

To section 119

This section provides the authority for the Government of Greenland to set provisions and terms or make decisions with a view to implementing or applying in Greenland any international agreements or rules entered into by the Greenland Self-Government or Denmark on behalf of the Greenland Self-Government on matters which are comprised by the Bill.

The section is intended to contribute to ensuring that the Government of Greenland is authorised to set rules on fulfilment of obligations under international conventions concerning matters comprised by the Bill.

To section 120

To subsection (1)

This subsection specifies that activities comprised by licences and activities in relation thereto under the Bill must not be performed unless prior approval has been obtained from the Government of Greenland. The subsection provides, among other things, that prior approval must be obtained before the establishment of buildings, facilities and installations and activities and measures for the performance of obligations on termination of operations and activities comprised by licences under the Bill. It is assumed in this connection that the licensee will prepare a plan for approval by the Government of Greenland concerning the activities planned.

However, it follows from the provision that the Government of Greenland may set provisions and terms to the effect that specific activities under a licence are not subject to approval. By way of example, the Government of Greenland may set terms thereon in standard terms or in an executive order. The current standard terms of prospecting licences and exploration licences include terms to the effect that separate approval is not required for certain small-scale activities under a prospecting or exploration licence. This practice can continue under the Bill.

The provision means that, as a general rule, the different activities under licences are subject to approval before they are commenced. The provision includes all activities comprised by a licence, inside as well as outside the area delineating the mineral resource which is being

explored or exploited under the licence.

When approvals are issued under the provision, a number of terms may be set for the performance of the activities, see section 121, including concerning technical, safety, health, environmental, resource-related and social aspects. In addition, the Government of Greenland may set terms on, for example, the duration of the approval, the licensee's reporting on specific aspects and monitoring.

To subsection (2)

This subsection provides that all measures in connection with suspension of exploitation activities are subject to approval from the Government of Greenland.

When approvals are issued under the provision, a number of terms may be set for the performance of the activities, see section 121, including concerning technical, safety, health, environmental, resource-related and social aspects. In addition, the Government of Greenland may set terms on, for example, the duration of the approval, the licensee's reporting on specific aspects and monitoring.

To subsection (3)

This subsection provides that large-scale or substantial activities performed in connection with the performance of activities under a licence, including drilling, shaft sinking, driving of drifts, etc., are subject in each case to approval from the Government of Greenland before they are commenced. The reason is that the activities mentioned are complicated and may be associated with special risk.

When approvals are issued under the provision, a number of terms may be set for the performance of the activities, see section 121, including concerning technical, safety, health, environmental, resource-related and social aspects. In addition, the Government of Greenland may set terms on, for example, the duration of the approval, the licensee's reporting on specific aspects and monitoring.

To section 121

This section provides the authority for the Government of Greenland to set provisions and terms for all approvals under the Bill in all relevant respects concerning the approval, the mining plan, the closure plan, another activity plan and activities under the plans in order to ensure that the licensee performs the activities in accordance with the purposes under section 1 of the Bill and other provisions, and also the authority for the Government to require the preparation of a closure plan, see section 81(3).

Among other things, the provision is intended to contribute to ensuring that the activities under the activity plans are consistent with the purposes of the Bill as stated in section 1.

The existing plans and their approval under the Mineral Resources Act include terms on relevant matters to ensure that the licensee performs the activities comprised by the activity plans in accordance with the purposes of the Mineral Resources Act. The existing practice concerning activity plans and their approval can continue under the provisions of the Bill. In addition, amended or new provisions or terms may be set in accordance with section 121 of the Bill.

To section 122

Under this section, the Government of Greenland must supervise a licensee's or other parties' operations and activities comprised by the Bill, including provisions and terms set under the Bill.

The section also means that the supervisory authority will have access at all times to all parts of a licensee's or other parties' operations and activities comprised by the Bill. To the extent necessary to perform the supervisory work under this section, the supervisory authority employees are thus entitled, without a court order, to access all such parts on presentation of proof of identity.

However, access to the enterprise and the activities is reserved for cases where it is required in order to perform the supervision of the enterprise's activities which are comprised by the Bill.

The term "supervisory authority employees" has been preferred over "the Government of Greenland" to emphasise that only a limited group of employees will have authorised access as supervisory employees under this provision. The term "supervisory authority employees" also includes external consultants, advisers and experts performing supervisory duties on behalf of or together with the supervisory authority by agreement with the supervisory authority.

By way of example, the inspections may take the form of random visits without prior notice to the licensee. The inspections may also be carried out at short notice or as regular routine checks. The supervisory authority employees and specifically authorised persons may also carry out other forms of inspections and checks than those mentioned above.

To section 123

This section provides that the Government of Greenland is entitled to issue enforcement notices concerning compliance with the Bill and provisions and terms set under the Bill. The

section also provides that the Government of Greenland may issue enforcement and prohibition notices for the purpose of ensuring compliance with the Bill and provisions and terms set under the Bill.

Under the section, enforcement and prohibition notices may be issued to licensees or other parties comprised by the Bill. By way of example, such other parties could be the licensee's contracting parties, see section 17.

To section 124

This section imposes a certain duty of disclosure on licensees and other parties comprised by the Bill.

The section covers all information required for administrative processing in connection with, for example, the consideration of an application for the grant of a licence under the Bill or information required for adequate supervision of activities under the Bill.

Under the provision, the Government of Greenland is entitled to order the persons or companies comprised by the provision to submit information which is deemed by the Government of Greenland to be necessary for its processing in each case. The Government of Greenland is entitled to decide that information must be submitted in a specific format, including on a USB stick, as electronic data files or other appropriate media.

To section 125

This section is intended to ensure that the Government of Greenland may suspend processing and other administrative activities concerning the licensee in case a licensee fails to pay the amounts due concerning processing and other administrative activities under the Bill.

If the Government of Greenland issues an enforcement notice to suspend activities under a licence, the licensee will be given a reasonable period in which to pay any amounts owing to the Government of Greenland before the Government of Greenland suspends its processing activities and its decisions in all matters concerning the licensee.

It is deemed to be appropriate to allow the Government of Greenland to suspend processing and other administrative activities in any case concerning a licensee or other party if there is a risk that the Government of Greenland will not receive the payments due to it under the Bill.

To section 126

To subsection (1)

This provision allows the Government of Greenland not to grant a licence or an approval if this would be incompatible with important public interests.

The allocation of powers between the Greenland Self-Government and the state in international matters within an area is basically determined by whether responsibility for the area has transferred or not. This follows from sections 11-12 of the Act on Greenland Self-Government. Under sections 11 and 12(1) and (2), the Greenland Self-Government is empowered to negotiate, conclude and terminate agreements under international law in areas that have transferred, including in the mineral resource area. Thus, the Greenland Self-Government holds the powers concerning international matters, including national security and defence policy matters, in the areas that have transferred.

The expectation is that decisions under this section concerning foreign policy, defence policy or national security issues or interests will be made in cooperation with the Danish authorities, and the Government of Greenland may ask Danish authorities to submit their observations on the decision to the Government of Greenland to the extent that this is appropriate and relevant.

An applicant may be an applicant for the grant of any licence or any approval under the Bill.

The Government of Greenland's decision in this regard may be made as a separate decision on this issue or as part of a decision to grant or not to grant a licence or an approval to an applicant or licensee. The Government of Greenland may make a separate decision in this regard before the Government of Greenland makes a decision on whether or not to grant a licence or an approval.

The purpose of the provision is to ensure that, under the Bill, the Government of Greenland is authorised (able) to take into account important general social conditions and considerations in the decision of whether to grant a licence or an approval under the Bill.

The provision should only be applied in special exceptional cases if so justified by important public considerations and interests, including important foreign policy, defence policy or national security considerations or interests.

A similar provision can be found in the Danish Act on the Continental Shelf and Certain Pipeline Facilities in the Territorial Sea (*kontinentalsokkelloven*).

To subsection (2)

This subsection requires licensees and applicants to disclose all information which may be of relevance to an assessment under subsection (1). One example of such information would be information about owners, ties to foreign states, trading, e.g. supply agreements, with enterprises in the military industry or third countries and former sanctions in connection with violations of international conventions etc.

The licensee's or applicant's information to the Government of Greenland must be documented, e.g. by transcripts from registers or verified copies of certificates.

The provision further provides the Government of Greenland with the authority to demand from licensees and applicants any information, and the related documentation, which is deemed to be necessary in order to make a decision under subsection (1) on an adequately informed basis.

Information submitted to the Government of Greenland under this provision will be comprised by Greenland Parliament Act no. 9 of 13 June 1994 on Access to Public Administration Files, as amended. Which means that, for example, information about technical installations or procedure or about operating or business conditions or the like will be excluded from public access where such information is of material financial importance to the person or enterprise whom the information concerns.

To subsection (3)

This subsection provides the authority for the Government of Greenland to conduct any checks which are deemed to be necessary, for example in order to verify the information submitted by licensees and applicants under subsection (2).

In this connection, the Government of Greenland is entitled to consult national and international registers and contact various authorities, including in third countries.

To section 127

To subsection (1)

This subsection specifies that a licensee granted a licence or approval under the Bill is not exempt from the obligation to obtain approvals or licences under other legislation. The same applies to other parties comprised by the Bill.

One example of this would be where a licensee's activities under the Bill include activities performed concerning establishment and operation of airfields or other air traffic facilities. In such case, the licensee and its contracting parties, if any, see section 17, must comply with the provisions of the Danish Civil Aviation Act (*luftfartsloven*) by making sure that the necessary approvals or licences under the Civil Aviation Act are obtained from the aviation authorities. To the extent that activities of this nature are performed in the course of a licensee's activities under the Bill, however, they will also be taken into account in the overall processing by the authorities under this Bill. The Government of Greenland's approval of matters in relation thereto is thus also necessary.

The provision may be regarded as a catch-all provision as most of the matters that are relevant in relation to the performance of mineral activities are governed by the Bill. However, matters may arise which, in addition to requiring a licence or approval under the Bill, also require a licence or approval under other legislation. This would be the case with the HydroPower Act (*vandkraftressourceloven*) and the Danish Aviation Act (*luftfartsloven*).

The provision makes it clear that it is for the licensee to ensure that the necessary licences or approvals are obtained. Accordingly, the Government of Greenland is not responsible for such matters, even where the Government of Greenland has not provided guidance in relation to other legislation.

To subsection (2)

This subsection provides for an exception to subsection (1), establishing that a licence under the Bill will exempt a licensee from the obligation to meet requirements of area legislation on area allocation inside as well as outside the licence area for buildings and facilities approved in accordance with the Bill.

The Government of Greenland's approval of a mining plan under section 78, including, for example, on the establishment of a mining facility, other facilities or buildings, will also serve as a licence to use the area in question comprised by the licence in the approved manner under area legislation.

To section 128

To subsection (1)

This subsection allows for compulsory acquisition of real property in order to perform activities under the Bill.

In 1992, the powers to set rules on the statutory authority and procedure for compulsory acquisition of real property transferred to the Home Rule Government (now, the Self-Government) as regards areas of responsibility which have transferred to the Self-Government. The powers transferred by Act no. 1012 of 19 December 1992 on compulsory acquisition of real property in areas of responsibility which have transferred to the Greenland Self-Government. In Greenland, compulsory acquisition of real property is governed by Greenland Parliament Act no. 25 of 30 November 1992 on compulsory acquisition.

The Greenland Parliament Act builds on the Danish Act on Compulsory Acquisition of Real Property from 1992 (*ekspropriationsloven*) and is thus purely a procedural. This means that the Bill only authorises compulsory acquisition in accordance with the rules in this regard in the Greenland Parliament Act, see also subsection (2).

The provision means that, to the extent necessary, the Government of Greenland may decide to initiate compulsory acquisition of a property with a view to establishing and operating an enterprise and performing activities under the Bill.

It is a condition under the provision that the compulsory acquisition must be necessary. Necessary usually means that there are no reasonable alternatives to a compulsory acquisition of the property.

The Government of Greenland may also decide that a compulsory acquisition must be made which does not involve any surrender of land, but where the establishment and operation of an enterprise and performance of activities under the Bill result in such disadvantage or damage to a property, enterprise etc. that the intervention may serve as the basis of damages for compulsory acquisition under the provision.

In case a compulsory acquisition of part of a property will significantly impair the utility value of the other part of the property, the licensee may be ordered to acquire the entire property if so demanded by the owner of the property.

Compulsory acquisitions will be made for the licensee's account. This means that the licensee must pay all expenses involved in the compulsory acquisition, including damages for the property in question.

To subsection (2)

This subsection establishes that compulsory acquisition under subsection (1) must take place in accordance with the rules of the Greenland Parliament Act on compulsory acquisition (*landstingslov om ekspropriation*).

The Greenland Parliament Act includes detailed provisions on the powers of the compulsory acquisition authority, including on the compulsory acquisition procedure and the payment of damages, etc.

To section 129

To subsection (1)

This section establishes that the Government of Greenland may set provisions on the conservation of one or more specific sites in the interest of safeguarding geological conditions and their protection. On a geological conservation site, no activities of any kind may be performed unless the Government of Greenland has set provisions to the effect that one or more specific activities may be performed.

The geology in Greenland is very interesting and varying and includes old and special rocks and minerals. For many years, surveys and analyses have been made and articles written about the geology of Greenland, which is of great prehistoric value.

The provision is intended to contribute to protecting and conserving special geological areas. This would include areas of special and significant geological importance.

The Government of Greenland may set provisions to the effect that one or more specific areas are designated a full or partial conservation site. If a specific area is designated a full conservation site, this means that all activities are prohibited in the area. If a specific area is designated a partial conservation site, this means that only specified activities may be performed in the area.

By way of example, the Government of Greenland may set provisions on conservation in an executive order.

To subsection (2)

This subsection provides that the Government of Greenland may set provisions under an executive order to the effect that activities under the Bill are prohibited or restricted in one or more areas.

The concept of "general interest" is to be understood in a broad sense.

By way of example, the provision allows the Government of Greenland to set provisions to the effect that activities under the Bill must not be performed within specified zones in semi

urban areas or in specified zones where, for example, mineral activities are likely to have adverse effects on existing industries or the local population.

The interests which may be safeguarded under this provision may include, by way of example, the local population's possibility to exercise a profession or the local population's possibility to use an area for recreational activities.

Prohibitions or restrictions can only be set with prospective effect, meaning that prohibitions or restrictions set in an executive order will only apply to licences granted after the publication of the executive order and that prohibitions or restrictions cannot be exercised with respect to licences already granted.

To section 130

To subsection (1)

This subsection governs the Government of Greenland's right to leave authority tasks to be performed by other public authorities or private parties to a certain extent. The subsection serves as independent authority to issue executive orders concerning such delegation. The promulgation and entry into force of such executive order will be a condition for the delegation to have any legal effect in respect of citizens and enterprises, etc.

By way of example, the proposed provision entitles the Government of Greenland to decide to delegate its supervisory duties to other parties. The provision aims to ensure that the supervisory duties are organised in the most appropriate and optimal manner as regards competences and resource utilisation. If other authorities are able to perform the supervisory duties in a more appropriate manner, it may be decided that the duties will be performed by those authorities instead.

Under the provision, it is also possible to decide that private enterprises possessing specific expertise in the area may perform the supervisory duties. If the supervisory duties are delegated to a private enterprise, the Government of Greenland may in this connection set provisions to the effect that the enterprise will have the same rights and obligations as the Government of Greenland when performing the supervisory duties.

In particular, it may be relevant to delegate supervisory duties to private enterprises possessing specific qualifications to perform the duties.

One example of delegation of duties and powers by public authorities under the legislation to private enterprises is the classification of ships.

In 2003, the Danish Maritime Authority entered into an agreement with the American Bureau of Shipping, Bureau Veritas, Det Norske Veritas, Germanischer Lloyd, Lloyd's Register, Nippon Kaiji Kyokai and RINA S.p.A. Registro Italiano Navale Group. The agreement concerns the performance of a number of duties on behalf of the Danish maritime authorities. Under the agreement, the enterprises may issue certificates, demand repairs and carry out inspections. In this area, the decisions of the classification agencies may be brought before the courts only by the recipients of the decisions. There is no administrative complaints procedure.

If the Government of Greenland decides to delegate administrative duties under the Bill to another authority or a private party, the Government of Greenland must supervise the compliance by such authority or party with applicable rules concerning the performance of the administrative duties.

To subsection (2)

If it is decided that, for example, the supervisory powers will be delegated to a public authority or a private enterprise, the party in question and its employees will have the same powers as the supervisory authority and its employees would have in performing the task in question, unless otherwise provided in the document of delegation. Under this subsection, if such terms are not laid down in the document of delegation, the party in question will thus be entitled, for example, to issue enforcement notices requiring the recipient to comply with the Bill and provisions and terms set under the Bill. The employees performing the supervisory duties will also have access to all parts of the mineral enterprise and its activities to the extent that the activities are comprised by the Bill and it is necessary for the employees when performing the supervisory duties. This follows from section 122. Reference is made to that provision and the relevant explanatory notes.

To section 131

To subsection (1)

This subsection is intended to ensure that local communities and citizens affected by a specific mineral project can apply for funding to initiate assessments or seek independent advice on unresolved issues.

In addition, relevant organisations registered in Greenland can apply for funding to initiate assessments or obtain independent information on a specific mineral project.

Reports and other information and data, etc. which have been prepared or obtained using the funding may be used towards the development of the mineral project in question.

To subsection (2)

This subsection establishes that funds may only be applied for after the project terms of reference or a project description has been put out to pre-consultation, see sections 44 and 106. Reference is made to those provisions and the relevant explanatory notes.

The background for this is a wish to ensure that the funds available will be used to ensure that affected citizens and relevant organisations, etc. can obtain information and knowledge to make constructive contributions to the development of a specific mineral project.

To subsection (3)

This subsection provides that the Government of Greenland may set specific provisions on the funds available under subsection (1).

One example of such provisions would be provisions on the size of the fund, requirements to the application, who are eligible to apply, how the funds will be distributed and who will manage the funds.

To section 132

To subsection (1)

The proposed provision includes any damage caused by an enterprise or an activity. This includes derivative and consequential damage and purely economic damages and losses.

The provision means that any damage caused by an enterprise or activities comprised by the licence is subject to strict liability.

The provision is based on general social considerations and the allocation principle that the persons and enterprises, etc. which are responsible for or carry out the operations or activities under the Bill and which in general will obtain an economic revenue from their operations or activity must pay damages for the losses caused in the course of their operations or activities.

The provision is further based on an assumption that strict liability may act as a deterrent by encouraging persons and enterprises, etc. comprised by the Bill to take relevant measures etc. to avoid and mitigate damage and thus their liability in damages. Strict liability also ensures that the injured party may successfully claim damages from the party having caused the loss, including also in case of accidental damage.

In addition, a number of legal-technical considerations are supported by the rules on strict liability. This is because it will often be difficult for the injured party to prove fault or neglect on the part of the party having caused the loss. The strict liability system proposed in the Bill renders it superfluous to produce evidence of any fault or neglect on the part of the licensee. Strict liability is therefore expected to contribute to avoiding that injured parties must turn to the courts to establish the licensee's liability.

Furthermore, the provision means that the licensee is liable to the injured party in the same way as if the licensee itself had caused the damage, even if the damage is caused by a party other than the licensee in the performance of activities comprised by the licence.

The strict liability should also be seen in light of the fact that the enterprise and activities under the Bill will typically take place in or close to vulnerable Greenland nature where irreparable harm may result if the enterprise or activity is not performed in accordance with applicable rules and with due caution and care.

To subsection (2)

This subsection governs the reduction of the amount of damages in case of contributory negligence.

The amount of damages may be reduced or eliminated altogether only in case of wilful misconduct or gross negligence on the part of the injured party.

To section 133

This section provides the authority for the Government of Greenland to set provisions and terms to the effect that the licensee's liability, including responsibility and liability for environmental damage, must be covered by insurance or that other security must be provided.

For example, such other security may be in the form of an amount paid into escrow, a bank guarantee or a custody account with Danish government bonds.

The specific nature of the insurance or collateral must be determined with due regard to the operations in question and the scope and nature thereof, including the risk of any liability arising out of the licensee's measures in connection with the performance of the activities etc. in the licence period and on termination of the licence.

It also follows from the provision that the Government of Greenland may set provisions and terms to the effect that the licensee's activities and matters, etc. in connection therewith must be covered by other relevant insurance. Therefore, it follows from the provision that the

Government of Greenland may also set provisions and terms to the effect that the licensee's activities and matters, etc. in connection therewith which do not concern the licensee's liability must be covered by relevant insurance. For example, such provisions and terms may specify that the licensee's facilities and buildings, etc. must be covered by relevant insurance.

To section 134

This section provides the authority for the Government of Greenland to set provisions and terms to the effect that the liability, including responsibility and liability for environmental damage, of a licensee's contracting parties must be covered by insurance or that other security must be provided in so far as the contracting parties' services and activities are used for the performance of activities under the licence.

For example, such other security may be in the form of an amount paid into escrow, a bank guarantee or a custody account with Danish government bonds.

The specific nature of the insurance or collateral must be determined with due regard to the operations in question and the scope and nature thereof and the contracting party's activities, including the risk of any liability arising out of the contracting party's measures in connection with the performance of the activities etc. in the licence period and on termination of the licence.

To section 135

This section governs compensation for environmental damage and is, except for certain linguistic changes, a re-enactment of section 67 of the Mineral Resources Act.

To subsection (1)

It is proposed to provide that the provisions of this Bill on compensation for environmental damage apply to damage caused by pollution of land, sea, seabed, subsoil, water or air in the course of the activities comprised by this Bill. The terms "land, sea, seabed, subsoil, water and air" are to be understood in a broad sense. Against this background, the term "water" includes, for example, groundwater, streams, lakes and the sea. The term "pollution" is not defined in the Bill, but is to be interpreted in the same way as in other environmental protection legislation applicable in Greenland. The pollution or interference etc. referred to in subsection (2) must have been caused in the course of an activity comprised by the Bill. Activities not comprised by the Bill cannot therefore give rise to liability for environmental damage under the Bill.

To subsection (2)

It is proposed to provide that the provisions referred to in subsection (1) apply correspondingly to pollution and any other negative impact on the climate or nature as well as interference by noise, vibration, heat, light or the like.

To section 136

This section lists the types of damage being eligible for compensation under the provisions of the Bill on compensation for environmental damage. Except for certain linguistic and editorial changes, this section is a re-enactment of section 68 of the Mineral Resources Act.

The section is drafted in accordance with the present state of the law and defines what is meant by the term "damage" in this Bill. Accordingly, compensation for non-pecuniary damage will not be available in the absence of a specific legal basis for such claim. Furthermore, compensation will only be available for purely economic losses to the persons who must be considered as belonging to the group of persons protected under the law of damages.

To para. 1)

This paragraph provides for compensation for personal injury and loss of provider caused by environmental pollution. The term "personal injury" also covers mental disorders caused by shock. However, compensation can only be claimed to the extent that the person concerned is a person entitled to compensation, for example in cases where the person concerned has himself been in danger or has suffered direct physical harm.

The services comprised by this provision are further governed by general liability rules. Thus, although not explicitly stated in the wording of the provision, it is assumed that compensation for "reasonable funeral expenses" will also be available to the person who has paid for the funeral, irrespective of whether that person is entitled to compensation for the loss of a provider, see section 12 of the Liability and Compensation Act (*erstatningsansvarsloven*).

To para. 2)

This paragraph provides for compensation for damage to property caused by environmental pollution. This provision covers in particular damage to immovable and movable property, including floating materials. Thus, the provision provides for compensation for the loss suffered by a shepherd whose fields and crops are destroyed by environmental pollution. The provision also covers the operating losses associated with the damage to, for example, the immovable or movable property. It is a precondition that the operating loss is a foreseeable

consequence of the damage to the immovable or movable property. If the operating loss is not connected with the damage to property, compensation will not be available under this provision, but potentially under the provision in para. 3).

To para. 3)

This paragraph provides for compensation for purely economic losses. To be eligible for compensation under this provision, the loss must be caused by an impairment of the environment beyond what must be expected or tolerated in view of the nature of the area.

The question as to who may claim compensation for economic (operating) losses under the provision must be determined by case law on the basis of general doctrines of the law of damages, including the rules on foreseeability and on the interests and persons protected under the law of damages.

To para. 4)

This paragraph provides for compensation for reasonable costs incurred in preventing and averting damage or injury. The provision gives the right to recover costs both for mitigating damage under paras 1) - 3) that has already occurred and for preventing damage that is likely to occur. The provision is thus closely linked to the injured party's duty under the general law of damages to take reasonable steps to avoid or mitigate his loss ("duty of mitigation").

If, in order to prevent or mitigate the damage referred to in paras 1) - 3), it is necessary to remove a pollution of public goods, such as the air, the sea, etc., the provision provides for compensation for the reasonable costs involved. Such costs include reasonable costs of inspecting the contaminated area and further analysing the pollutants in chemical laboratories, etc. The requirement of "reasonable costs" implies, among other things, that the injured party should take care to limit his costs as far as possible. The Bill does not specify who is entitled to take measures to prevent or mitigate damage under paras 1) - 3) and to claim compensation from the responsible and liable party.

This question must therefore be determined on the basis of the present state of the law applying to the persons protected under the law of damages. The default principle is therefore that only the person who has actual or potential control of the object or immovable property, etc., may take preventive measures and claim compensation from the person responsible and liable.

This paragraph also provides for compensation for reasonable costs incurred in restoring the environment. The purpose of the provision is to give the injured party the right to recover the costs necessary to restore the environment to the standard it was before the damage

(pollution). To the extent that measures can be taken to prevent or limit pollution of public goods, the costs of such measures will be recoverable under the provision. However, the costs will only be recoverable if they are considered "reasonable".

Since public goods are characterised by no one having a special right in them, private individuals, including environmental organisations, incurring the costs of preventing pollution of or restoring the environment, can normally claim compensation from the responsible and liable party only if a specific legal basis for such claim exists. This is because the persons concerned will not be able to satisfy the traditional control criterion, according to which the injured party must have an actual or potential right of control in the damaged property before compensation may be claimed.

To the extent that the environmental authorities have a right or duty to take remedial action or restore the environment, the costs of such action or restoration will also be recoverable under the provision.

The provision does not imply that the costs of preventing the damage referred to in paras 1) - 3) or of restoring the environment must have been incurred. However, if the costs have not been incurred, it is assumed by the provision that the responsible and liable party may refuse to pay any amount until there is sufficient evidence that the amount will be used for reasonable preventive measures or for restoring the environment.

To section 137

Except for certain linguistic changes, this section is a re-enactment of section 69 of the Mineral Resources Act.

To subsection (1)

Under the proposed subsection, anyone who causes pollution in connection with an activity comprised by this Bill must pay compensation for the damage caused by that pollution, even if the cause of the damage is accidental. Subsection (1) introduces strict liability (no-fault liability) for anyone who, in connection with an activity comprised by this Bill, causes pollution which results in damage.

Liability under this provision only arises if the damage is caused by the activities comprised by this Bill and performed by the enterprise being subject to strict liability. Thus, if the damage is caused by circumstances unrelated to those particular activities, the enterprise is not strictly liable under the provision.

The strict liability is linked to the responsible and liable party under the provision of section

95(2) of the Bill. Thus, the person employed by the enterprise who performs the act giving rise to liability of the responsible and liable party on a no-fault basis is thus liable only under the general law of damages, see, among other provisions, sections 19 and 23 of the Liability and Compensation Act.

Strict liability under this provision generally requires the injured party to show that the conduct (in the form of an act or omission) of the liable party has caused the pollution and that this pollution has resulted in damage (causation). However, it is implied that the injured party can benefit from the relaxation of the burden of proof which follows from general evidence law principles.

The scope of strict liability in cases where there are competing or concurrent causes of damage is not specified in the provision. This issue will therefore have to be determined on the basis of the present state of the law.

If the responsible and liable party has caused pollution in interaction with the forces of nature, so that these appear as the event causing the damage, the default principle is that liability is incurred under the provision. However, this implies that the natural event was foreseeable. The responsible and liable party could therefore incur strict liability if the triggering factor is a natural event occurring at regular intervals (frost, storm, significant rainfall, etc.).

However, in the case of natural disasters such as earthquakes, hurricanes, typhoons or similar force majeure events, liability is not incurred under the provision, notwithstanding the fact that it does not contain an express exception in respect of such cases. The question of reducing the tortfeasor's liability must also be determined in the light of the present state of the law. In particular, it may be noted that the liability of the person having caused the damage may be reduced or extinguished under the provision of section 24(1) of the Liability and Compensation Act where liability would be unreasonably onerous or if exceptional circumstances make it reasonable.

The distribution of liability between two or more persons subject to joint and several liability must also be based on the applicable state of the law, see in particular section 25 of the Liability and Compensation Act, according to which the distribution must be based on an assessment of what is deemed to be reasonable, taking into account the nature of the liability and any other circumstances.

To subsection (2)

It is proposed to provide that liability under subsection (1) will not arise if the damage was caused by the activity being performed in accordance with mandatory rules set by a public authority.

Subsection (2) provides that strict liability will not apply if the damage was caused by an activity being performed in accordance with mandatory rules and regulations set by a public authority. It is for the responsible and liable party to prove that the conditions for exemption from liability are met. Thus, the provision does not exclude that the responsible and liable party may be held liable on a no-fault basis under subsection (1) for environmental damage even if the company has acted in accordance with a licence or approval issued by a public authority.

The provision does not preclude the responsible and liable party from invoking other grounds for exemption from liability, such as, for example, self-defence, in accordance with the general rules of property and obligations.

The Bill does not prescribe that the responsible and liable party being subject to strict liability is exempted from liability on the grounds that the damage is caused by a third party intentionally or through gross negligence. Strict liability would therefore also apply in this case. However, the responsible and liable party would have a right of recourse against third parties under the provisions of section 25 of the Liability and Compensation Act, and the liability of the enterprise towards the injured party could, in exceptional cases, be reduced under section 24 of the Liability and Compensation Act.

To subsection (3)

This subsection governs the reduction of the compensation in case of contributory negligence, personal injury or loss of provider.

The compensation may be reduced or extinguished only if the injured or deceased person intentionally or through gross negligence contributed to the injury.

To subsection (4)

This subsection governs the reduction of the compensation in the event of contributory negligence in other cases.

The compensation may in other cases be reduced or extinguished only if the injured party intentionally or through gross negligence contributed to the injury.

To section 138

This section governs agreements on departure from the provisions of the Bill on compensation for environmental damage and is a re-enactment of section 70 of the Mineral Resources Act.

To subsection (1)

It is proposed to provide that an agreement to depart from the provisions of this Bill on compensation for environmental damage is invalid if the agreement was made prior to the occurrence of the damage and the departure is to the detriment of the injured party.

The reason for this provision is that a potential injured party will have difficulty in understanding the consequences of an agreement made prior to the occurrence of a damage.

The provision does not extend to agreements made after environmental damage has occurred, so that, for example, liable parties have the possibility to conclude settlement agreements etc.

Furthermore, the provision does not concern insurance contracts relating to environmental damage, irrespective of when they are concluded, see also subsection (2).

To subsection (2)

This subsection specifies that the provision in subsection (1) does not prevent a responsible and liable party from taking out liability insurance against potential claims arising from the provisions on environmental responsibility and liability and compensation for environmental damage. The responsible and liable party may then refer the injured party to his insurer in the usual manner.

To section 139

Except for certain linguistic changes, this section is a re-enactment of section 71 of the Mineral Resources Act and entails that the provisions of the Part on compensation for environmental damage do not limit the injured party’s right to compensation under the general law of contractual and non-contractual damages or under the provisions of other Parts of this Bill or other legislation.

Various legislation provides for strict liability for damage occurring within the area

concerned. To the extent that other legislation provides for a better legal position of the injured party of an environmental pollution damage than the provisions of this Bill, the injured party will be able to claim compensation under those specific rules of law. The person who has suffered damage as a result of environmental pollution thus has the choice between claiming compensation under the provisions of this Bill or under other legal provisions which may be more favourable to such person.

This section also governs the relationship between the provisions on compensation for environmental damage provided in case law within unwritten areas of the law and the provisions provided in the Bill. Thus, the section does not limit the right of the injured party to claim compensation under the general law of contractual and non-contractual damages.

The provisions of this Bill on compensation for environmental damage take precedence over the general liability rules in this Bill to the extent that there is a difference between the general liability rules and the rules on compensation for environmental damage.

To section 140

It is proposed to authorise the Government of Greenland to set specific provisions on compensation for environmental damage and the matters referred to in Part 22, including the application of national or international rules, agreements or guidelines relating to compensation for environmental damage. It is intended that the Government of Greenland may, on the basis of the proposed section, supplement the provisions to the extent appropriate to ensure the effectiveness of this Bill and in accordance with the purposes of this Bill.

To section 141

This section means that any person who fails to provide, within the relevant time-limits, any information which must be provided by such person under the Bill or which may be required by the Government of Greenland to be provided under section 32(1), section 39(1), section 50(2), cf. section 39(1), section 55(1), section 63(1), section 68(1), section 68(2), section 77(4), section 81(5), section 82(4), section 104(1), section 104(3) and (4), section 124 or section 126(2) of the Bill may be subject to default fines.

The section further means that any person who fails to comply with an enforcement or prohibition notice issued under section 68(3), section 123 or section 125 may be subject to default fines.

Moreover, any person who fails to provide the security required under section 82(4) within the relevant time-limit may be subject to default fines.

The purpose of the provision is to introduce a sanction which will effectively make persons and enterprises provide the information they are required to provide, comply with enforcement and prohibition notices and provide security for their obligations.

Default fines are not a punitive sanction, but a means of seeking to enforce a duty to act.

The provision largely corresponds to section 37 of the Greenland Parliament Act on competition (*the Competition Act*).

In cases where an enterprise or a person fails to provide any information which may be required by the Government of Greenland under the Bill, default fines will often be the most relevant sanction as the alternative will often be to withdraw a licence, which would often be a disproportionate measure to the breach committed by not providing the information in question.

It will often be in a licensee's own interest to provide information within the relevant time-limits as the progress of a project will depend on the Government of Greenland receiving the required information. However, situations may occur where a licensee has an interest in delaying the process, and in those cases it may be relevant to use default fines as a means of exerting pressure to safeguard the Greenland Self-Government's interests in an effective mining industry, see the purposes of the Bill as stated in section 1.

Under section 68(3) of the Bill, the Government of Greenland may issue an enforcement notice requiring a licensee, in connection with the performance of activities under a licence, not to use any contracting parties which have not provided information and documentation concerning direct and indirect taxes to the Government of Greenland and other Greenland authorities under subsection (2) or which fail to pay direct and indirect taxes to the Government of Greenland and other Greenland authorities in accordance with the rules in force in Greenland from time to time. In case of a failure to comply with an enforcement notice under the provision, the Government of Greenland is allowed to decide under subsection (4) of the provision that the licensee must discontinue its activities under a licence. A decision requiring the licensee to discontinue activities is potentially very intrusive. The imposition of default fines will therefore often be a more proportionate sanction.

Under section 123 of the Bill, the Government of Greenland may issue enforcement notices requiring compliance with the provisions of the Bill and provisions and licence terms set under the Bill. Under section 123 of the Bill, the Government of Greenland may issue prohibition notices for the purpose of enforcing compliance with the Bill and provisions and licence terms set under the Bill. In such cases, default fines are deemed to be the most relevant sanction for licensees who fail to comply with an enforcement or prohibition notice. One example of situations which are governed by the provisions would be a situation of non-

compliance with safety regulations. In those cases, the Government of Greenland will often issue an immediate improvement notice requiring the licensee to suspend specific activities until compliance with safety regulations has been restored. In such cases, default fines, the amount of which is determined in proportion to the proceeds obtained by the licensee from continuing the activities in spite of the notice, may contribute to making licensees comply with the enforcement notices issued by the Government of Greenland, and may thus contribute to safety and health compliance in the mineral industry. It could also be cases where a licensee or third party does not comply with an order to clean up. In such a case, Naalakkersuisut will be able to apply default fines for a period before using the authority in section 78 to remove assets on behalf of the licensee or a third party.

Under section 82(4) of the Bill, a licensee must provide security for the performance of its closure obligations. It is important that adequate security is provided as the Treasury will have to pay the clean-up costs if a licensee is unable to fulfil its obligations in case no or only inadequate security is provided. The right to impose default fines in case a licensee fails to provide the requisite security within the relevant time-limits will therefore contribute to safeguarding the economic interests of the Greenland Self-Government, see the purposes of the Bill as stated in section 1.

Default fines under the provision must be imposed as daily or weekly fines until the relevant information is provided, the relevant enforcement notice or prohibition notice is complied with or the relevant security is provided.

The amount of the default fines will be a discretionary amount in each case. The general principle of proportionality applies in this connection. This means, among other things, that the default fines must not be disproportionate to the violation committed.

When determining the amount of the default fine, the economic capacity of the person being fined must be taken into account so as to ensure that pressure is brought to bear. The extent and nature of the violation must also be taken into account.

A default fine should be at least DKK 1,000 per day or DKK 5,000 per week, and only one daily or one weekly default fine may be imposed.

Default fines are imposed from a given date. The precondition for imposing default fines is that the Government of Greenland has informed the enterprise or person in advance that default fines will be imposed with effect from the date in question and of the nature of the violation.

The amount of default fines may be increased if, after a period of default fines being paid, the relevant information is still not provided, the relevant enforcement or prohibition notice is still not complied with or the relevant security is still not provided.

To section 142

To subsection (1)

As a general rule, this Bill is aimed at commercial activities. Extensive sanctioning of the provisions of the Bill has therefore not been deemed necessary. Moreover, it is assumed that a potential withdrawal of the licence etc. may act as a deterrent.

However, it has been deemed necessary to impose sanctions on certain violations, including, for example, the performance of activities contrary to section 22(2) and (3) of the Bill.

The activities comprised by section 22(2) and (3) include prospecting and mineral exploration and exploitation of minerals, scientific surveys concerning minerals, export of minerals from Greenland and other activities which are subject to a licence or approval under the Bill. The provision imposes a general ban on the performance of the mentioned activities comprised by the Bill in the absence of a licence or approval thereto granted by the Government of Greenland according to the rules of the Bill in this regard.

To subsection (2)

This subsection specifies that unless a more severe penalty is due under other legislation, a fine will be imposed on any person who performs activities in a geological conservation site where such activities are not permitted under provisions set by the Government of Greenland thereon, see section 129. Reference is made to the provision in section 129 and the relevant explanatory notes.

To subsection (3)

This subsection identifies a number of violations in paras 1) - 3) which may result in the imposition of a fine in case of wilful misconduct or gross negligence.

To para. 1)
Para. 1) of subsection (3) establishes that unless a more severe penalty is due under other legislation, a fine will be imposed on any person who intentionally or with gross negligence misrepresents or misinforms or fails to disclose information to which an authority is entitled under the Bill or under provisions or terms set under the Bill.

This provision should be read in the context of the fact that it is a necessity in order to perform administrative processing and the supervisory duties etc. under the Bill that all relevant information is duly provided.

To para. 2)
Para. 2) of subsection (3) establishes that unless a more severe penalty is due under other legislation, a fine will be imposed on any person who intentionally or with gross negligence fails to comply with provisions or terms for licences or approvals granted under the Bill or provisions or terms set under the Bill.

This provision is intended to ensure that activities performed are consistent with the purpose of the Bill. If the violation is significant, the Government of Greenland may also decide to withdraw the licence to the extent allowed under general rules and principles of administrative law, including on legitimacy, proportionality and equal treatment.

To para. 3)
Para. 3) of subsection (3) establishes that unless a more severe penalty is due under other legislation, a fine will be imposed on any person who intentionally or with gross negligence fails to comply with an enforcement or prohibition notice issued by the Government of Greenland under section 123 or 125 or provisions or terms for licences or approvals granted under the Bill or provisions set under the Bill.

This provision should be read in the context of the fact that it is a necessity in order to the authorities to perform their duties under the Bill to ensure compliance with any enforcement and prohibition notices issued. Accordingly, any person who fails to comply with an enforcement or prohibition notice may be liable to a fine.

To subsection (4)

This subsection provides the authority for the Government of Greenland to set provisions to the effect that any person who violates provisions set under the Bill may be liable to a fine or other sanction under the Criminal Code for Greenland. The provision means that the sanctioning rules under the Bill are not an exhaustive list of sanctions which may be imposed for violation of the provisions if otherwise decided by the Government of Greenland.

To subsection (5)

This subsection concerns legal persons etc. who violate provisions as mentioned in subsections (1) - (3). Under this provision, legal persons etc. may also be liable to a fine for any such violations.

Under the provision, the same applies where the violation has been committed by the Greenland Self-Government, a municipality or a local authority community comprised by the Greenland Parliament Act on municipal government (*Inatsisartutlov om den kommunale styrelse*).

To subsection (6)

A case about a fine under subsections (1) - (3) or provisions or terms issued under subsection (4) may be determined administratively as a fixed-penalty notice. For reasons of due process, administrative decisions to issue a fixed-penalty notice may be made only where the violations involved are clear, uncomplicated and without any significant evidential doubt.

It is further a precondition for closing a case by way of an administrative decision to issue a fixed-penalty notice that the recipient of the notice admits to being guilty (accepts the fine) and pays the fine within a specified time-limit.

If the violation involved is not clear, uncomplicated and without any significant evidential doubt, the case must be handed over to the police and the prosecution service, who will then consider and deal with the matter. The same applies if the recipient of the fixed-penalty notice does not admit to being guilty (does not accept the fine) and does not pay the fine within a specified time-limit.

Moreover, it follows from the subsection that the provisions of the Danish Administration of Justice Act (*retsplejeloven*) on the requirements for the contents of an indictment and on the principle that a person charged has the right to remain silent apply correspondingly to fixed-penalty fines under the Bill.

The amount of the fine will be a discretionary amount in each case. The general principle of proportionality applies in this connection. This means, among other things, that a fine must not be disproportionate to the violation committed.

The amount of the fine must be determined having regard to the seriousness of the violation, including any safety risks caused by the violation, and the extent of the violation as well as the proceeds obtained or anticipated from the violation.

The provision will apply, for example, in connection with the Government of Greenland's supervision duties under section 122, in cases where clear breaches of safety regulations are discovered or where an attempt to export low-volume or low-grade minerals out of Greenland is made without approval from the Government of Greenland.

To subsection (7)

This subsection specifies that any fines imposed under the Bill or provisions issued under the Bill will accrue to the Treasury.

To section 143

To subsection (1)

This subsection provides the authority for the Government of Greenland to confiscate any minerals that have been collected, extracted or exploited without a licence or contrary to any provisions or terms that have been set.

To subsection (2)

This subsection provides the authority for the Government of Greenland to confiscate any minerals that are exported or sought to be exported out of Greenland without an approval or contrary to any provisions or terms that have been set.

To subsection (3)

This subsection allows confiscation of any minerals that have been collected, extracted or exploited without a licence or their value from transferees who, at the time of the transfer of the minerals, knew or ought to have known that the minerals have been collected, extracted or exploited without a licence.

The provision contributes, among other things, to preventing circumvention of the provision in subsection (1) and thus to safeguarding the Greenland Self-Government's revenue from mineral resources in the country.

To subsection (4)

It follows from this subsection that the Government of Greenland may also confiscate the proceeds or a corresponding amount from the collection, extraction or exploitation of minerals without a licence or contrary to any provisions or terms that have been set, see subsection (1), or from the export of or attempt to export minerals out of Greenland without an approval or contrary to any provisions or terms that have been set, see subsection (2).

In the absence of an adequate basis for determining the amount of such proceeds, the Government of Greenland may confiscate a discretionary amount in each individual case which is deemed to represent the proceeds obtained.

To subsection (5)

This subsection specifies that the rules on confiscation of proceeds from a criminal offence or a corresponding amount under the Criminal Code for Greenland apply correspondingly to any confiscation by the Government of Greenland under subsections (1) and (2).

The provisions on confiscation of the proceeds from a criminal offence or a corresponding amount are contained in sections 166-170 of the current Consolidated Act no. 1045 of 7 September 2017 on a Criminal Code for Greenland, as amended.

The provisions on confiscation in sections 166-170 of the Criminal Code for Greenland thus apply correspondingly to the confiscation by the Government of Greenland of the proceeds or a corresponding amount obtained from the collection, extraction or exploitation of minerals without a licence or contrary to any provisions or terms that have been set, see subsection (1), or from the export of or attempt to export minerals out of Greenland without an approval or contrary to any provisions or terms that have been set, see subsection (2).

To subsection (6)

This subsection specifies that confiscation under subsections (1) and (2) will be made by the Government of Greenland itself. The subsection also provides that the Government of Greenland may ask the relevant authority under the Criminal Code for Greenland which is authorised to confiscate under the rules of the Criminal Code in this regard to perform the confiscation on behalf of the Government of Greenland under subsections (1) and (2).

In practice, the relevant authority which performs confiscation under the rules of the Criminal Code in this regard is law enforcement and the Police of Greenland.

Thus, law enforcement and the Police of Greenland must also perform confiscation for the Government of Greenland under subsections (1) and (2) if so requested by the Government of Greenland, including perform confiscation for the Government of Greenland in connection with the collection, extraction or exploitation of minerals without a licence or contrary to any provisions or terms that have been set, see subsection (1), or in connection with the export of or attempt to export minerals out of Greenland without an approval or contrary to any provisions or terms that have been set, see subsection (2).

To subsection (7)

This subsection provides that any confiscated minerals will be sold off and the proceeds will accrue to the Treasury. Such sale will be performed on the basis of and in accordance with the purpose of the Bill, including that revenue from mineral activities will accrue to society.

To section 144

To subsection (1)

This subsection specifies the date when the Bill enters into force.

It is proposed that the Bill will enter into force on 1 July 2023.

To subsection (2)

It follows from sections 1, 2 and 28 of the Self-Government Act that the Greenland Self-Government may amend or repeal rules which apply to Greenland within the areas of responsibility that have transferred.

The responsibility for some of the areas that are comprised by the Act on the Continental Shelf, see Consolidation Act no. 1001 of 18 November 2005 as amended (*kontinentalsokkelloven*), which has applied to Greenland until now has transferred to the Greenland Self-Government.

On those grounds, the Bill amends and repeals some of the provisions of the Continental Shelf Act as far as Greenland is concerned. The parts of the Continental Shelf Act which comprise areas for which responsibility has transferred to the Greenland Self-Government and which will be amended or repealed are the following:

1) Section 1, section 2, section 3(2), section 4(5) and section 5(1) are repealed.
2) In section 3(1), "but see subsection (2)" is deleted.
3) Section 6 is given the following wording:
   "6.–(1) Facilities and safety zones, see section 3, which are in or have been established within the Greenland part of the continental shelf are subject to the law otherwise applying to Greenland. The Government of Greenland exercises the powers laid down in section 4 in compliance with the rules of the Greenland Parliament Act on mineral resources and mineral resource activities (the Mineral Resources Act) and the Greenland Parliament Act on mineral activities."

The other provisions of the Continental Shelf Act will continue in full force and effect without any amendments as far as Greenland is concerned.

To subsection (3)

This subsection concerns licences already granted on the date when the Bill enters into force.

The subsection is intended to ensure that the Bill does not mean that any licences already granted concerning minerals under the Mineral Resources Act which have not yet terminated will be rendered invalid when the Bill enters into force. Moreover, the provision specifies that the Bill is also to apply to such licences, licensees under such licences and activities performed under such licences before the date when the Bill enters into force.

The provision also ensures that the Bill applies to any activities concerning minerals, including the collection, extraction and exploitation of minerals, which are comprised by the Mineral Resources Act and performed before the date when the Bill enters into force. Moreover, the provision ensures that the Bill applies to any minerals collected, extracted or exploited in the course of such activities.

The provision also establishes that the Bill applies to any decisions on activities and matters concerning minerals comprised by the Mineral Resources Act which are made before the date when the Bill enters into force. However, for purposes of sections 25 and 73 time will begin to run when the Bill enters into force. Reference is made to that provision and the relevant explanatory notes.

To subsection (4)

This subsection specifies that the provisions applying on 1 July 2023 for mineral activities and application procedures, standard terms and conditions for licences concerning minerals will remain in full force and effect with the amendments which follow from the Bill until repealed or replaced by any new provisions set under the Bill.

Thus, it follows from the subsection that the provisions for mineral activities and application procedures, standard terms and conditions for licences concerning minerals which concern matters falling within the scope of the Bill and apply after the Bill has entered into force on 1 July 2023 will continue in full force and effect with the amendments which follow from the Bill. However, the provisions and terms may be repealed or replaced by new provisions set under the Bill.