

A new Mineral Resources Act in the Pipeline

In Greenland, a new Act on Greenlandic Self-government came into force on 21 June 2009. This Act ensures that from this date Greenland can take over the administration of most areas from Denmark, including the mineral resource area.

The Greenlandic Self-Government has decided to take over the mineral resource area and in this connection it has recently introduced a proposal for a new Bill on Mineral Resources in Greenland, which – if it is passed – comes into force on 1 January 2010.

To a large extent the Bill is similar to the Mineral Resource Act now in force. However the Bill includes several new provisions, and below I will point out some of the most significant alterations to observe, if the Bill is passed with its present wording.

First of all, it should be noted that the Joint Committee will be abolished, and in stead the act will be administered by the Greenlandic Self-Government and the Bureau of Minerals and Petroleum (BMP) only.

In case an exploration- or exploitation license is granted, the licensee should be aware of the following new terms and conditions:

- The holder of a mineral exploitation license will be obliged to process the minerals in Greenland, unless the licensee can prove that this will lead to considerable increased costs or disadvantages.
- As regards hydrocarbons, the Government may at any time order the licensee to initiate the exploitation. Moreover, the Government can decide the quantity the licensee can exploit, and under certain conditions the Government subsequently can change this quantity.
- There is a new extensive chapter in the Bill concerning protection of the environment, the nature and the climate.
- It is now stated in the Bill that in addition to preparing a closure plan and an environmental impact assessment as part of the application for an exploitation license the licensee must also prepare a report for the impacts on society.

As regards the licenses to explore or exploit hydrocarbons, the Bill renders it possible to apply for a license to an area adjoining an already existing license, without following the normal procedure for applications. Application for a license to such an area will be simplified by introducing the so called “neighbor procedure”.

According to the existing Mineral Resources Act a license to exploit can only be granted to a limited company domiciled in Greenland. If the Bill is passed, there will be an exemption to this provision applicable to “small scale” exploration and exploitation. Small scale is defined as a maximum of 5 persons domiciled in Greenland to whom the Government can grant a license to explore and exploit for minerals (not hydrocarbons).

Finally, it should also be noted that under the Bill a more strict liability is introduced whereas all licensees will be held responsible for any damages caused by their activities, even though it is caused accidentally.

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The Bill on Mineral Resources in Greenland has been submitted to Nuna Law Firm among others for comments, and we have submitted several comments to the Bill. Our comments primarily deals with the need for elaboration of some provisions. In addition we have found that in some cases the impact of certain provisions will be too far-reaching for the licensee.

Finally, it is quite uncertain – as the Bill is formulated right now – whether/or to what extent the terms under already existing licenses will be subject to changes in accordance with the new terms stipulated under the Bill, or whether the existing licenses will remain valid according to the terms now in force. This could be a crucial matter to many existing licensees, and in my comments to the Bill I have emphasized the need of clarification hereof.

As soon as the Bill has been passed this autumn, we will inform you of the final wording of the new Mineral Resource Act in Greenland. In the mean time, should you have any questions concerning the Bill, please do not hesitate to contacting us.

I enclose the chapter on Greenland which I have prepared for “Getting the deal through – Mining 2009” (www.gettingthedealthrough.com). Please note that the chapter describes the rules as they are under the existing Mineral Resources Act.

Nuuk, 4 September 2009

Peter Schriver