

## **Explanatory Notes to the Bill**

### **General explanatory notes**

#### **1. Introduction**

The Act on Greenland Self-Government 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 the Greenland Self-Government authorities can assume responsibility for the mineral resource area and that the Greenland Self-Government will thereby have the legislative and executive powers in the mineral resource area. The field of responsibility of mineral resources is stated in List II in the Schedule to the Act on Greenland Self-Government. Section 3(2) of the Act on Greenland Self-Government provides that fields of responsibility set out in List II of the Schedule will be transferred to the Greenland Self-Government authorities at times fixed by the Self-Government after negotiation with the central authorities of the Realm. The Act on Greenland Self-Government does not deal with the question of the procedure to be followed in general in connection with a decision to take over a field of responsibility. Before the bill is introduced, the Greenland Government will introduce the following proposed resolution to the Greenland Parliament:

*"Proposed Greenland Parliament resolution on the Greenland Self-Government assuming responsibility for mineral resources and the part of the working environment that concerns offshore work in the Greenland territorial sea and the continental shelf area.*

#### *Reasons*

*With the commencement of the Act on Greenland Self-Government, the Self-Government has been given the option of deciding itself to assume responsibility for a wide range of fields of responsibility. The mineral resource area and the working environment area are among the fields of responsibility that may be taken over on the basis of a Greenland resolution.*

*Section 3(2) of the Act on Greenland Self-Government provides that fields of responsibility set out in list II of the Schedule of the Act will be transferred to the Greenland Self-Government authorities at times fixed by the Self-Government after negotiation with the central authorities of the Realm. The two fields of responsibility mentioned are both set out in List II in the Schedule to the Act.*

*With the new self-government system, all revenue from mineral resource activities accrue to the Greenland Self-Government, including revenue of both Greenland and Danish authorities in the form of fees collected under licences, taxation, ownership interests, etc. In order for the Self-Government to be of real substance, it is therefore of the utmost importance that the mineral resource area is transferred to the Greenland Self-Government as one of the first fields of responsibility.*

*As regards working environment, it is one of the fields of responsibility set out in list II for which it can be decided to transfer only a part of the field of responsibility to the Greenland Self-Government authorities.*

*The working environment area is currently regulated by the Greenland Working Environment Act that applies to onshore work and to mineral resource extraction, including also offshore activities. The current Working Environment Act is a framework act and an enabling act authorising the stipulation of rules on health and safety in relation to offshore work. This authority has not been used so far and the offshore area in Greenland must be regarded as being in fact unregulated as regards health and safety. In Denmark, the offshore area is subject to the Offshore Safety Act, which does not apply in Greenland.*

*The aim of the assumption of responsibility for health and safety for offshore work at the same time as the mineral resource area is taken over as a field of responsibility is to concentrate the political and administrative responsibility for safety matters for offshore activities under the Greenland Government with a view to creating a basis for an overall and clear set of safety rules with a concentration of regulatory and supervisory functions.*

*The reason why the time of taking over the fields of responsibility set out in List II must be fixed after negotiations with the central authorities of the Realm is that Greenland must assume responsibility for these fields under well-planned and orderly conditions.*

*Against this background, the Greenland Government submits to the Greenland Parliament for its favourable consideration the Greenland Government's recommendation that the central authorities of the Realm be notified that the Greenland Self-Government authorities will assume responsibility for mineral resources and the part of the working environment that concerns offshore work and that therefore it is requested that negotiations be entered into with the central authorities of the Realm concerning the timing of such assumption of responsibility.*

*The aim is that the two fields of responsibility should be taken over with effect from 1 January 2010. Later in this session, the Greenland Government will introduce a Greenland Parliament bill on mineral resources in Greenland with proposed provisions concerning health and safety in respect of offshore work. This resolution, therefore, concerns a decision in principle on the taking over of the mineral resource area as a field of responsibility. The debate on the regulation of the mineral resource area as such is expected to be held in connection with the reading of the Greenland Parliament bill on mineral resources.*

*With these words, I submit the matter to the Greenland Parliament for its favourable consideration."*

The bill lays down the basis and framework for the future regulation of mineral resources as well as activities of importance to mineral resources.

The regulation of these activities in the bill is in accordance with national and international rules and agreements concerning such activities. Thereby the bill also contributes 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 the best national and international practices for the performance and regulation of such activities. Thereby the bill contributes to preserving and further developing Greenland as a good and attractive area for

exploration for and exploitation of oil, gas and minerals, exploitation of the subsoil and exploitation of energy from water and wind for mineral resource activities and subsoil activities.

The bill re-enacts the principle of a single, integrated regulatory process in the mineral resource area where in particular environmental, technical, safety and resource considerations form part of a whole in the assessment of a mineral resource activity. This means that licences granted cover all matters of importance to an activity under the Act. This model was one of the main recommendations of the Ølgaard report from 1990; see details below under 1.1. Historical review.

Furthermore, also accounting and economic issues come within the scope of the regulatory process in connection with, for example, the statement of revenue from mineral resource activities in connection with the specification of the economic relations between the Self-Government and the Danish Government under the self-government system.

The bill proposes, for example, the application of an overall, integrated regulatory process covering all matters and rules relating to mineral resources, mineral resource activities, use of the subsoil and related energy activities. The administration of the mineral resource area is based on an overall and coordinated decision-making process in relation to all relevant matters and considerations.

An overall, integrated regulatory process also promotes effective administration of the raw material area and user friendliness for citizens and enterprises. Thereby the bill creates a basis and a framework for the Greenland Self-Government for its taking over of the management, administration and further development of the mineral resource area.

As a result of the Self-Government's right to mineral resource revenue, the bill contributes to the development of a Greenland economy that is to a greater extent independent of external subsidies. Section 2.3 on regulatory matters provides a detailed description of the principle of the integrated regulatory process.

The bill replaces the current Danish Act on Mineral Resources in Greenland (the Mineral Resources Act); see Consolidation Act No. 368 of 18 June 1998.

## **Background for the bill**

### **1.1. Historical review**

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

Owing to the increasing interest in exploration for and exploitation of mineral resources in Greenland, the Danish Government in 1960 set up a commission with the task of preparing a draft mining act for Greenland. In June 1963, the commission submitted its report. The intention was that exploration for and exploitation of mineral resources in Greenland was to be made as attractive as possible and that at the same time the interests of the public were to be safeguarded in a reasonable way. In November 1964, the Danish Government introduced a bill on mineral resources in Greenland which was prepared on the basis of 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 took effect a special system was at the same time established in the mineral resource area. The main principles of the mineral resource system were laid down in the Home Rule Act. The specific provisions for the mineral resource area were laid down in Act No. 585 of 29 November 1978 on Mineral Resources in Greenland. These were the most important elements of the mineral resource system:

1. Acknowledgement that the resident population of Greenland has basic rights to the natural resources of Greenland.
2. The establishment of joint decision-making powers (mutual right of veto) for the central authorities of the Realm and the Home Rule concerning major transactions with regard to non-living resources in Greenland.
3. Determination of the principles for distribution of public revenue from mineral resource activities in Greenland.
4. The establishment of an equal-representation Danish/Greenland Joint Council on Mineral Resources in Greenland.
5. The establishment of a Mineral Resource Administration for Greenland under the Minister for Energy to attend to the central administrative tasks in the mineral resource area. The Mineral Resource Administration was also to attend to tasks as the secretariat of the Joint Council on Mineral Resources in Greenland.

In March 1988, the Home Rule Government and the Danish 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 per year was to be distributed by 50% to the Danish Government and 50% to the Greenland Home Rule without set-offs in the Danish Government's subsidies to Greenland. The distribution of revenue above this amount was to be laid down by statute following the negotiation between the Home Rule and the Danish Government.
2. The Home Rule and the Danish Government were each to contribute DKK 12.5 million to a joint company, Nunaoil A/S, with a view to promoting commercial development in the mineral resource area.
3. The influence of the Home Rule on the administration of the mineral resource area was to be increased.
4. The licence system of the Mineral Resources Act was also to apply to hydropower activities in Greenland.
5. After 1 January 1995 either party could demand negotiations on alteration of the mineral resource system.

This agreement on principles was the basis for the preparation of an amended Mineral Resources Act that was adopted as Act No. 844 of 21 December 1988.

According to agreement between the Premier and the Danish Minister for Energy, a working group was appointed in 1990 that was given the task of preparing a proposal for a 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 utilisation of mineral resources in Greenland with a view to making the mineral resource sector an important business sector on a par with other trades and industries in Greenland. One of the main elements in the proposed new strategy was the introduction of radically changed licence terms and a tax legislation that would be competitive as compared to the tax legislation of other countries as well as oil exploration onshore and in the continental shelf areas of Greenland through licensing rounds.

The working group's proposal for a new strategy for the mineral resource area led to the introduction of a new mineral resources bill that was adopted as Act No. 335 of 6 June 1991 and which is still in force. The bill aimed to make it more attractive to invest in exploration for mineral resources (hydrocarbons and minerals) in Greenland.

Some of the main elements of the proposed strategy were:

- a. The introduction of radically changed licence terms, particularly for the exploitation of hard minerals in order to be able to offer terms that are competitive as compared to the terms in other countries.
- b. Initiation of oil exploration onshore and in continental shelf areas off Greenland, including continental shelf areas off West Greenland via licensing rounds in the 1990s.
- c. The introduction of amendments to, first and foremost, the Greenland tax legislation in order to establish competitive working conditions for the international mining and oil industry also in this respect.
- d. The preparation of extensive information material on Greenland of a general and specific nature aimed at the international mining and oil industry.
- e. The preparation of information material on an ongoing basis aimed at the Greenland population concerning developments in the mineral resource area.
- f. Simplifications and adjustments in the Mineral Resource Administration's regulation of mineral resource activities, for example with regard to the environment and safety.
- g. The use of a more active and proactive approach on the part of public authorities in relation to the mining and oil industry in order to promote international investments in mineral resource activities in Greenland.

The Premier and the Danish Prime Minister agreed in September 1992 that the powers to grant licences for hydropower activities and the authorities' consideration of such licences were to be transferred to the Home Rule. This resulted in hydropower resources being separated from the mineral resource system by Act No. 1074 of 22 December 1993.

On the basis of the endeavours to attract the interest of the oil industry in offshore oil exploration, it became necessary 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 that was adopted by Act No. 303 of 24 April 1996.

By an amendment to the Mineral Resources Act with effect from 1 July 1998, the authority to grant licences and the administrative tasks in the mineral resource area were transferred from the Danish Minister for Energy and the Mineral Resources Administration for Greenland under the Minister to the Greenland Home Rule Government and the Bureau of Minerals and Petroleum under the Home Rule Government. The other elements of the mineral resource system for Greenland were not changed.

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

This bill will to a great extent build on the strategy presented in the Ølgaard report, as well as on the experience and knowledge that has been established in the Bureau of Minerals and Petroleum since 1998.

## **1.2. Act on Greenland Self-Government and the future mineral resource system**

The Act on Greenland Self-Government was adopted by the Danish Parliament on 19 May 2009 and took effect on 21 June 2009. One of the reasons for the Act on Greenland Self-Government is a wish to ensure the highest possible degree of equality between Greenland and Denmark. The Act creates the legal basis for Greenland being able to take over additional authority. The Act on Greenland Self-Government acknowledges that the people of Greenland is a people pursuant to international law with the right of self-determination.

According to the Act on Greenland Self-Government, the Greenland Self-Government authorities can assume responsibility for the mineral resource area. With effect from the Self-Government authorities' assumption of responsibility for the mineral resource area, the Self-Government authorities will have legislative and executive powers in the mineral resource area.

On assumption of the responsibility for the mineral resource area, the Greenland Self-Government authorities must therefore establish the general framework of and lay down specific rules for activities in the mineral resource area and attend to the administration of the mineral resource area, including granting licences for prospecting, exploration and exploitation of mineral resources.

Under the Self-Government Act, the Greenland Self-Government authorities have the right of use of and the right to exploit the mineral resources in Greenland's subsoil, and revenue from mineral resource activities accrues to the Greenland Self-Government authorities. The Act on Greenland Self-Government contains specific rules on reduction of the Danish Government's annual subsidy to the Self-Government authorities, to the extent that the Self-Government authorities' annual revenue from mineral resources exceeds DKK 75 million.

### **1.2.1. The Greenland Self-Government authorities' assumption of responsibility for the mineral resource area**

The Greenland-Danish Self-Government Commission's Report on Self-Government in Greenland from April 2008 includes a draft Act on Greenland Self-Government. After a referendum had been held in Greenland and after the Greenland Home Rule Parliament's consideration in November 2008, the Danish Government introduced the bill on Greenland Self-Government that was adopted by the Danish Parliament on 19 May 2009 and took effect on 21 June 2009.

Under section 3(2) of the Act on Greenland Self-Government, fields of responsibility that appear from List II of the Schedule to the Act on Greenland Self-Government may be transferred to the Greenland Self-Government authorities at times fixed by the Self-Government authorities after negotiation with the central authorities of the Realm. The mineral resource area is mentioned as no. 26 on this list.

Reference is made to the proposal mentioned in the introduction for a Greenland Parliament resolution on the Greenland Self-Government assuming responsibility for mineral resources and the part of the working environment that concerns offshore work in the Greenland territorial sea and the continental shelf area as fields of responsibility.

When a field of responsibility is transferred to the Greenland Self-Government authorities, the Greenland Self-Government authorities exercise legislative and executive powers in the field of responsibility taken over within the framework of the Danish Constitution, international commitments as well as the Act on Greenland Self-Government.

In the explanatory notes to the Act on Greenland Self-Government, the following is stated on the mineral resource area as a field of responsibility (section 4.4.31 of the general notes):

*"The mineral resource area relates to exploration for and exploitation of mineral resources in Greenland. Mineral resources means non-living resources in the form of hard minerals and hydrocarbons.*

*The provision in section 8 of the Home Rule Act on the fundamental rights of the resident population to the natural resources of Greenland is enshrined in the Act on Mineral Resources in Greenland (the Mineral Resources Act); see Consolidation Act No. 368 of 18 June 1998 on Mineral Resources in Greenland with the related "Agreement between the Greenland Home Rule and the Danish Government on the administration of mineral resources in Greenland as of 1 July 1998" of 8 January 1998.*

*Under the Mineral Resources Act, the administration of the mineral resource area in Greenland is exercised within the framework of a special mineral resource system between Greenland and Denmark.*

*The main elements of the mineral resource system are:*

- *Joint decision-making power for the Home Rule and the Danish Government with a mutual right of veto.*
- *Distribution scale between the Danish Government and the Home Rule for revenue from mineral resource activities in Greenland.*
- *An equal-representation Danish/Greenland Joint Council on Mineral Resources in Greenland.*
- *A Bureau of Minerals and Petroleum under the Greenland Home Rule to handle key administrative tasks, including the secretariat function for the Joint Council.*

*The Mineral Resources Act also contains provisions on the granting of and terms for prospecting, exploration and exploitation licences for hydrocarbons and hard minerals in Greenland. Moreover, the rules in the area lay down the framework for activities that are sound and appropriate in terms of technology, resources and safety, considering the surrounding environment.*

*The regulatory process under the auspices of the Bureau of Minerals and Petroleum includes approval procedures, supervision, monitoring and reporting and, in some cases, background surveys. These responsibilities are based on the provisions in the Act on Mineral Resources in Greenland as well as on provisions in the following other acts (as amended):*

- *Act for Greenland relating to land use, urban development and building.*
- *Act for Greenland on environmental conditions, etc.*
- *Act for Greenland on electricity, water and heating, fire services, ports, roads, telecommunications, etc.*
- *Act for Greenland on supplies, traffic, postal service, etc.*

*Environmental powers under the Act for Greenland on Environmental Conditions, the Marine Environment Act and the order on its entry into force for Greenland are exercised by the Bureau of Minerals and Petroleum as part of the overall regulatory process for mineral resource activities.*

*The current Act on the Continental Shelf (the Continental Shelf Act) provides that for facilities and safety zones that exist or have been established within the Greenland part of the continental shelf, the law otherwise applying to Greenland applies and that the Greenland Home Rule Government exercises the powers laid down in sections 2 and 4 in compliance with the rules of the Mineral Resources Act. The Bureau of Minerals and Petroleum is the Home Rule Government's authority in these areas.*

*Furthermore, the Danish Government and the Home Rule have established a jointly owned company, Nunaoil A/S, whose area of activities is public participation in hydrocarbon activities in Greenland. The rules for Nunaoil A/S have been laid down in "Agreement between the Danish Government and the Greenland Home Rule on transactions relating to Nunaoil A/S", which was subsequently enshrined in Act No. 1023 of 23 December 1998 and Greenland Parliament Act No. 12 of 30 October 1998."*

### **1.2.2. Economic relations and the distribution of revenue from mineral resource activities**

The key contents of the new system for economic relations between the Greenland Self-Government authorities and the Danish Government under the self-government system are as follows:

- 1) The Danish Government grants the Greenland Self-Government authorities a fixed annual subsidy at the same level as the block grant granted so far.
- 2) The Self-Government authorities finance areas of responsibility assumed under the Act on Greenland Self-Government.
- 3) Future revenue from mineral resource activities in the subsoil of Greenland accrues to the Self-Government authorities.
- 4) The Danish Government's subsidy to the Self-Government authorities will be reduced by an amount corresponding to half the revenue which, in the calendar year concerned, exceeds DKK 75 million. If the subsidy is reduced to zero kroner, no subsidy will be payable to the Self-Government authorities.



- 5) If the Danish Government's subsidy to the Self-Government authorities is reduced to zero kroner, negotiations will be initiated between the Greenland Government and the Danish Government regarding the future economic relations.

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

In the explanatory notes to the Act on Greenland Self-Government, the following comment is made regarding the distribution of revenue from mineral resource activities in Greenland (section 5.3.3 of the general notes):

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

*In that case, the positive effects of the mineral resource activities in Greenland society will result from general economic activities, 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 authorities. However, in the bill, trends in the Danish Government's subsidy are affected by the amount of public revenue that may result from mineral resource activities.*

*With this bill, the Danish Government's subsidy to the Self-Government authorities 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 deduction at the DKK 75 million mark is based on a wish to increase the incentive for exploration and thus promote Greenland's economic self-sustainability."*

Moreover, the explanatory notes to the Act on Greenland Self-Government state (section 5.3.3 of the general notes):

*"If the Danish Government's subsidy to the Greenland Self-Government authorities is reduced to zero kroner as a result of revenue from mineral resource activities in Greenland, the subsidy is also discontinued for subsequent years, and no subsidy is thus payable to the Self-Government authorities unless otherwise agreed between the parties; see section 10 of the bill.*

*The above system, according to which the subsidy is discontinued also for subsequent years if the Danish Government's subsidy to the Greenland Self-Government authorities in any one year is reduced to zero kroner as a result of revenue from mineral resource activities in Greenland, applies irrespective of whether the revenue from mineral resource activities in Greenland may decrease again or entirely ceases in subsequent years. Such a situation could, for example, arise in the years following a year with extraordinary non-recurring revenue 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 Danish Government's subsidy to the Self-Government authorities is reduced to zero kroner because Danish public authorities or companies, etc. owned by Danish public authorities sell ownership interests in mineral resource companies covered 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 is thus transferred to the Greenland Self-Government authorities is calculated as the amount that will reduce the Danish Government's subsidy to zero kroner. In such a situation, however, the revenue included and the reduction of the Danish Government's subsidy to zero kroner will not result in the cessation of future subsidies; see the notes to section 10."*

### **1.2.3. The revenue definition**

An important element in the self-government system is the economic relations between the Greenland Self-Government and the Danish Government that are regulated in the Act on Greenland Self-Government and which are described in detail in the explanatory notes to that Act. One element in the system for economic relations is the definition of revenue from mineral resource activities. The definition is set out in section 7(2) of the Act on Greenland Self-Government which 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 the exploitation of mineral resources. This shall not, however, include 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' stakes in companies, etc. that operate in the mineral resource area in Greenland.*
- 4) Revenue from 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."*

In the general explanatory notes to the Act on Greenland Self-Government (section 5.3.5), the following is stated on the revenue definition:

*"The general basis for the new mineral resource system is that the Greenland Self-Government authorities can take over the full regulatory authority in the mineral resource area in Greenland and be in receipt of the revenue from mineral resource activities in Greenland when this Act takes effect; see section 7(1) of the bill. Furthermore, reference is made to the explanatory notes to section 10 concerning the situation where the Danish Government's subsidy to the Greenland Self-Government authorities could be reduced to zero kroner.*

*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 have joint decision-making authority via the Joint Council on Mineral Resources in Greenland and with both the Danish 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 Self-Government may take over the mineral resource area.*

*The revenue definition of section 7(2) is based on the current legal position 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 be the basis for a reduction in the Danish Government's subsidy 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 interpretative notes of the Mineral Resources Act and related agreements will continue to be of importance 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 Greenland Government and the Danish Government with a view to ensuring that the revenue definition is in accordance 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 on an ongoing basis give each other insight into all relevant material. On the other hand, other amendments to the Greenland and Danish legislation that do not change the distribution of revenue from mineral resources do not in themselves give rise to a reassessment of the revenue definition. For example changes in the tax level will not give rise to a reassessment of the revenue definition; see section 7(2) of the bill."*

The explanatory notes to the bill on the Greenland Self-Government quoted above support the case for the exercise of regulatory authority in the mineral resource area continuing to be an overall, integrated process when the field of responsibility has been taken over so that it is ensured that the revenue definition will also in future meet the purpose.

The general explanatory notes to the Act on Greenland Self-Government (section 5.3.5.1) state the following on revenue in accordance with 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 is proposed of the definition of revenue in accordance with specific licences for prospecting, exploration or exploitation of mineral resources and, likewise, a re-enactment is proposed of the exclusion from the revenue statement of amounts paid to cover expenditure under the auspices of the Bureau of Minerals and Petroleum.*

*The types of revenue covered by the proposed section 7(2)(i) are any revenue received by Greenland authorities in accordance with specific licences for prospecting, exploration 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 licensees in the form of natural persons; see also section 5.3.4.*

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

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

Furthermore, in the same section the following is stated on mineral resource revenue that is to be excluded from the revenue statement:

*"Certain revenue is not to be included in the statement of revenue relating to mineral resource activities; see section 7(2)(i), second indent. The revenue in question is revenue in the form of amounts received in connection with specific licences when the amounts are paid to cover expenditure under the auspices of the Bureau of Minerals and Petroleum. The proposed exception re-enacts 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 will be amounts of reimbursement, fees, 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 items 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 duties pursuant to their licence (e.g. concerning measures to be taken upon termination of activities and environmental clean-up), cannot be paid for by mineral resource revenue that is hereby excluded from the revenue definition. Similarly, amounts of reimbursement received by Greenland and Danish authorities from licensees to cover such outlays will not be included in the revenue definition.*

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

*The fees, etc. that can be collected to cover expenditure under the auspices of the Bureau of Minerals and Petroleum were described in detail in the explanatory notes to section 31 b of the Mineral Resources Act (bill L 61 of 4 November 1993). See details under section 5.3.4 above.*

*The current area fee rates in relation to hydrocarbon licences have been fixed so that the area fees correspond to the related expenditure under the auspices of the Bureau of Minerals and Petroleum. The same will apply to corresponding area fees in future licences.*

*The above fees, etc., collected 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 fixed so as not to impair to any considerable extent the possibilities of attracting and retaining mining and oil companies' investments in exploration and exploitation of mineral resources, etc. in Greenland. Thus, the size of the fees referred to is fixed not primarily with a view to obtaining full cover for the expenses. When the Mineral Resources Act was amended in 1993, such partial expense coverage was authorised by the Act itself by the insertion of section 31 b."*

With regard to measures to be taken upon termination of activities and environmental clean-up, the following is stated in the same section:

*"Section 18(1) of the current Mineral Resources Act provides 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 can stipulate terms to ensure fulfilment of the licensee's obligations under subsection (1) and can 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 or in the form of current payments during the licence period whereby the security is accumulated during the licence period.*

*As regards environmental clean-up following offshore hydrocarbon activities, the Greenland 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 can 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 issued concerning the carrying out 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 carrying out 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 of 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 that are performed pursuant to licences awarded 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 sufficient 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 thereon will not be included in the revenue definition."*

The general explanatory notes to the Act on Greenland Self-Government (section 5.3.5.2) state the following on the revenue definition in the second indent that concerns tax revenue:

*"As has been the case until now, it must, as far as companies are concerned, be ensured upon the granting of exploitation licences 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 Self-Government has taken over the mineral resource area.*

*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 that are at least as onerous and which are fully included 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 are subject to the same capitalisation requirements as licensees in foreign groups; that generally the licensee trades at arm's length prices and on arm's length terms; that the licensee's form of organisation, 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 can lay down 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, apart from companies, 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.*

*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 deduction of related expenses) were earned in a limited company and the profit after tax were distributed in the same income year.*

*Furthermore, the Self-Government ensures that natural persons (who hold 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 that are at least as onerous and which are fully included in the revenue distribution.*

*For natural persons who hold a licence and 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 of the ratio between revenue and expenses for small business operators' activities in primary industries such as the fishing and hunting industries.*

*An amount corresponding to the remaining 40 per cent is then included in the calculation of the amount of taxes that 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 limited company and the profit after tax were distributed in the same income year.*

*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 documentation of expenses may be replaced by the above allowance for the 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 of financial statements for tax purposes, etc. aims to relax the financial reporting requirements for fishermen, hunters and similar small business operators. 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 underlie 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 mineral resource activities of natural persons."*

With regard to revenue from public participation in activities in the mineral resource area, the following is stated in the general explanatory notes to the Act on Greenland Self-Government (section 5.3.5.3):

*"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. that operate in the mineral resource area in Greenland. The revenue system includes revenue relating to mineral resource activities in Greenland that directly or indirectly accrue to Danish or Greenland authorities as owners and these authorities' revenue upon transfer of ownership interests or the like in companies, etc. that 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, exploration or exploitation of mineral resources in Greenland; see sections 6 and 7 of the Mineral Resources Act."*

The following is stated in 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 mineral resource revenue in Greenland, the Self-Government must ensure:*

- 1) That licences for prospecting, exploration and exploitation of mineral resources are granted on transparent and equal terms;*
- 2) That the enterprise carries on only 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 that means that the enterprise will maximise revenue and minimise, for example, production, trade and payroll costs; and*
- 4) That the annual report for the activities is prepared on the basis of International Financial Reporting Standards (IFRS).*

*In connection with the award of licences for prospecting, exploration and exploitation of mineral resources, the Greenland Self-Government must ensure that – in addition to being on transparent and equal terms; see above – the award is also 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 wholly or partly owned by Danish public authorities, the Self-Government will obtain 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."*

#### **1.2.4. Cooperation in the mineral resource area**

The general explanatory notes to the Act on Greenland Self-Government (section 5.3.6) state the following concerning the cooperation between Greenland and Danish authorities in the mineral resource area:

*"Until the Self-Government assumes responsibility for the mineral resource area 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/Greenland Government and the Danish Government including the "Agreement between Greenland Home Rule Government and the Danish 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 assumption of responsibility for the mineral resource area, the Self-Government will have a need for continuation of 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 Greenland Government and the Danish Government that will take effect immediately after Greenland has taken over the field of responsibility. It is assumed that the agreement will be in force for a period of five years. Prior to the expiry of the first five-year agreement, the Greenland Government can decide to renew the agreement in the form of a multi-year agreement that may be renewed successively in the form of multi-year agreements. It is assumed that such agreements will contain the following elements:*

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

*After the expiry of the first five-year agreement, subsequent five-year agreements concerning the above or similar services may, as mentioned, be concluded at the request of the Greenland Government. In that case, the intention is that negotiations should be initiated twelve months prior to the expiry of the current agreement. The reason for the relatively long period of agreement and the initiation of negotiations well in advance of the commencement of the period of agreement is that it must be ensured that the Self-Government's mineral resource authorities are given the possibility of deciding whether they want to continue the cooperation with the Danish research institution or whether they want to purchase consultancy from others, and that the research institutions will be able to plan their activity level over a number of years.*

*Upon the conclusion of the above agreements the Danish Government makes research corresponding to the research so far provided by public Danish research institutions of special relevance to resource exploration in Greenland available to the Greenland Government free of charge as long as the agreements are continuously renewed. What is referred to here is the basic institution and research assignments, 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 carried out so far by GEUS and NERI of relevance to mineral resource exploration in Greenland. In the first period of agreement the tasks will be of the same financial scope as in 2005 (subject to regulation 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 carries out projects for marketing of the mineral resource potential, etc. of the same economic scope as hitherto, and that in the first period of agreement the Self-Government carries out these projects as collaborate project work with GEUS and NERI to an extent corresponding to the extent in the period 2000-2004, i.e. for a period of agreement as a whole corresponding to just under half of the project scope. The Danish Government 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 will be introduced on various matters in connection with the Greenland Self-Government authorising the Danish Government to meet its obligations under section 9.*

*It is up to the Self-Government to decide whether, after the first five-year period of agreement, it wishes to enter into new multi-year agreements with the Danish Government concerning access to public Danish research institutions, and this bill does not limit the Greenland Government'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 detail in appendix 3 of a report presented by the Working Group concerning non-living resources under the Self-Government Commission."*

Consideration for continuity in the cooperation with Danish public research authorities in the first five-year period of agreement and consideration for the possibilities of the Self-Government of meeting its obligations under agreements concluded in the best possible manner prompt preservation of the exercise of regulatory authority in the mineral resource area as a single, integrated regulatory process.

#### **1.2.5. Negotiations in case the Danish Government's subsidy is reduced to zero kroner**

In the general explanatory notes to the Act on Greenland Self-Government, the following is stated in section 5.3.7 concerning negotiations between the Greenland Self-Government and the Danish Government in case the Danish Government's subsidy to the Self-Government is reduced to zero kroner:

*"If there is a year when the Danish Government's subsidy to the Self-Government authorities is reduced to zero kroner, see section 8, negotiations will be initiated between the Greenland Government and the Danish Government regarding the future economic relations between the Self-Government authorities and the Danish Government; see the provision of section 10.*

*The negotiations will mainly be concerned with the question of resumption of the Danish Government's subsidy to the Greenland Self-Government authorities, 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 take up the question of how to cover the expenses of the Danish Government on fields of responsibility that cannot be taken over within the framework of the Danish Constitution and the national community as well as other fields of responsibility that the Self-Government and the Danish Government wish to solve jointly.*

*Neither party is committed to a specific result of negotiations.*

*If, in the case where the Danish Government's subsidy to the Self-Government authorities has been reduced to zero kroner, the parties do not conclude an agreement on resumption of the Danish Government's subsidy, the Danish Government is not to pay subsidies to the Self-Government in the subsequent years. Only if an agreement is concluded between the Danish Government and the Greenland Government will the Danish Government's payment of subsidies to the Greenland Self-Government be resumed in the situation mentioned. In that connection it is assumed that an agreement for resumption of the Danish Government's subsidy to the Greenland Self-Government Authorities must be implemented through legislation that will then 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 authorities, 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. that operate in the mineral resource area in Greenland and revenue from taxation in Denmark; see section 7(2)(ii)-(iv). Such revenue will in the situation mentioned accrue to the Danish authorities concerned.*

*Finally, it should be mentioned that any agreements between the Greenland Government and the Danish Government concerning consultancy and other attendance to tasks for the purpose of the Self-Government authorities' attendance to the mineral resource area, see section 9, will not continue in the situation mentioned where the Danish Government's subsidy to the Greenland Self-Government has been reduced to zero kroner unless the parties conclude an agreement to this effect."*

#### **1.2.6. Greenland's rights to mineral resources in the subsoil**

Section 6 of the general explanatory notes to the Act on Greenland Self-Government states the following about Greenland's rights to mineral resources in the subsoil:

*"According to the bill, the mineral resource area can be taken over by the Greenland Self-Government authorities; see no. 26 in List II of the Schedule. When the Greenland Self-Government authorities take over the area of mineral resources, the Self-Government will have the legislative and executive powers in this area.*

*When Greenland takes over the mineral resource area, the Greenland Self-Government authorities will be responsible for establishing the general framework for activities in this area and for making arrangements, for example, by granting prospecting licences, exploration licences and licences for the exploitation of subsoil resources.*

*When taking over the mineral resource area, Greenland will subsequently have the right of use of and the right to exploit the subsoil resources in Greenland. Denmark will continue to have the sovereignty over Greenland.*

*Reference is made to item 5 above as regards revenue from the exploitation of mineral resources in Greenland. As appears from section 21(4) of the bill, independence for Greenland will imply, however, that Greenland assumes the sovereignty over Greenland. As mentioned below in item 10.2, the sovereignty covers the entire Greenland territory (the territorial land, sea and air)."*

## **2. Main principles of the bill**

### **2.1. Purpose**

The main purpose of the bill is appropriate exploitation of mineral resources and use of the subsoil in Greenland as well as activities that are related to these activities. Therefore, the bill also covers activities that are closely related to the exploitation of mineral resources such as the establishment and operation of pipeline networks.

This means that the purpose of the Mineral Resources Act, like the Danish Subsoil Act, is also to establish an appropriate framework for the use of the subsoil for purposes other than activities relating to mineral resources, for example storage of natural gas, heat storage and storage of greenhouse gases, etc. This arrangement should be viewed in the context of the task of the Bureau of Minerals and Petroleum to apply a single, integrated regulatory process to the area of mineral resources and the subsoil where special expert knowledge concerning geology and mineral resource activities in general is required. Reference is made to the explanatory notes below on regulatory matters.

Thus the bill aims to be a framework act laying down the main principles for the administration of the mineral resource and subsoil activities and within this framework the Greenland Government is authorised to lay down specific provisions. The Greenland Government may, for example, lay down provisions in executive orders, model licences, standard licence terms and specific licence terms. The current 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 implies, for example, that the bill is to contribute to ensuring that society receives a reasonable share of the financial gain of exploitation of mineral resources and the use of the subsoil for storage and that these activities are to be performed according to the long-term needs of society.

Finally, the bill aims to ensure that the activities covered are performed appropriately as well as in a sound manner as regards safety, health, the environment, resource utilisation and social sustainability. To a certain extent the bill makes allowance for international consideration for sustainable exploitation of resources, which is reflected, for example, in a requirement to the effect that the import and export of rough diamonds is permitted only under observance of the international standards the aim of which is to safeguard against trade in diamonds from conflict areas.

The Act also aims to ensure appropriate exploitation and regulation of exploitation of energy from water and wind for mineral resource activities covered by the Act. Regulation of such activities will to a great extent be sought to be coordinated with the general policy in the area, always provided that accounts must be kept separate for activities relating to mineral resource activities and activities relating to general utilisation of energy.

Sound resource utilisation means that the activities must be performed without unnecessary waste of resources and in consideration of society's long-term interests.

The demand for social sustainability means, for example, that allowance must be made for the social sustainability of mineral resource or subsoil activities in a broad sense when decisions are made as to whether licences for the activities can and should be granted. For example, assessments must be made of the occupational, social and structural impacts the activities may have on society and of the measures that can and should be taken to avoid or counteract significant negative impacts.

The provisions of the bill on social sustainability are to contribute to ensuring that the planning and administration of activities under the Mineral Resources Act will also be based on assessments of the impacts that the activities may have on Greenland society nationally and locally.

The bill is to a great extent an extension of the existing legislation and recommendations in the area. As opposed to previously, when a large number of provisions were stated in the licences and in standard terms, these provisions are now emphasised in the Act.

## **2.2. The Self-Government authorities' right to exploit mineral resources and the licensing system**

In accordance with the Act on Greenland Self-Government and the explanatory notes to that Act, the Self-Government authorities have the right of use of and the right to exploit the subsoil resources in Greenland when taking over the mineral resource area.

On Greenland's assumption of responsibility for the mineral resource area, the Greenland Self-Government authorities will be responsible for establishing the general framework for activities in this area and for making arrangements, for example, by granting prospecting licences, exploration licences and licences for the exploitation of subsoil resources.

Therefore, the basic principle of the proposed regulation of activities under the Act is that the activities may be performed only according to the Greenland Government's licences pursuant to the provisions of the Act. This is a continuation of the principles of the current Mineral Resources Act.

According to the bill, mineral resource activities are permitted only according to such a licence unless it is a question of collection and extraction of minerals without a licence according to the special provisions of the bill to this effect.

The Greenland Self-Government authorities may perform scientific and practical surveys of a general and cartographic nature relating to mineral resources, the subsoil and matters of importance to mineral resource activities, use of the subsoil or related energy activities.

On the other hand, others besides the Greenland Self-Government authorities are permitted only to perform such surveys under licences granted by the Greenland Government on the basis of the provisions of the bill. Part 12 contains rules on the granting of licences to perform scientific surveys.

A special and limited exception to the general licence requirement according to section 2(2) and section 49 of the bill appears from section 2(4) of the bill. Under that provision, the Geological Survey of Denmark and Greenland (GEUS) and the National Environmental Research Institute/Aarhus University (NERI) may without a licence conduct research corresponding to the research conducted so far by GEUS and NERI, including co-financed research, of special relevance to mineral resource exploration in Greenland. This research may be conducted without a licence, however, only to the extent and as long as the research is conducted to meet the Danish Government's obligation to make such research available to the Greenland Government under section 9(4) of the Act on Greenland Self-Government. GEUS and NERI cannot conduct research or other activities under the bill without a licence if this is not done to meet the Danish Government's obligation to make research available to the Greenland Government under section 9(4) of the Act on Greenland Self-Government, or if the Danish Government no longer has such an obligation.

It appears from section 9(4) of the Act on Greenland Self-Government and section 5.3.6 of the general explanatory notes to the Act on Greenland Self-Government that the Danish Government makes research corresponding to the research so far conducted by public Danish research institutions (GEUS and NERI) of special relevance to mineral resource exploration in Greenland available to the Greenland Government free of charge as long as the agreements mentioned in section 9(2) and (3) of the Act on Greenland Self-Government are continuously renewed. Furthermore, it appears from section 5.3.6 of the general explanatory notes to the Act on Greenland Self-Government as well as the explanatory notes to section 9(4) of the Act on Greenland Self-Government that what is referred to is the basic institution and research assignments, 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 carried out so far by GEUS and NERI of relevance to mineral resource exploration in Greenland.

This means that the exception to the general licence requirement of section 2(2) and section 49 of the bill applies only to research related to the Danish Government's obligation under section 9(4) of the Act on Greenland Self-Government, and it applies only as long as agreements concerning the cooperation in the mineral resource area between the Self-Government and the Danish Government under section 9(2) and (3) of the Act on Greenland Self-Government remain in force. If, for example, after the expiry of the first five-year period of agreement, the Self-Government decides not to renew the agreement, the Danish Government will no longer be obliged to make research of special relevance to mineral resource exploration available to the Self-Government. GEUS and NERI will then have to apply for a licence for research activities under section 49 of the bill in the case of scientific surveys and under section 15 of the bill in the case of actual prospecting.

Reference is made to section 1.2.4 of the general explanatory notes on cooperation in the mineral resource area.

GEUS's and NERI's research without a licence under section 2(4) of the bill must be

conducted in accordance with all applicable acts and rules in Greenland. Not later than 15 December each year, GEUS and NERI will forward a plan of the research activities planned to be conducted in Greenland during the following year under section 2(4) to the Greenland Government.

With the Greenland Self-Government authorities taking over the field of responsibility, there is no longer any need to have special rules concerning the right of the original population to collect and extract mineral resources. It is the Greenland Self-Government authorities who have the right of use of and the right to exploit mineral resources, etc. in Greenland. The purpose of taking over the mineral resource area is that the entire population of Greenland should to the widest extent possible benefit from the activities carried out according to this bill.

The existing right of residents to collect and use less valuable minerals to a certain extent, laid down in section 32 of the Act on Mineral Resources for Greenland, is repealed by this bill and is replaced by the provision of section 45.

### **2.3. Regulatory matters**

The regulatory process applied by the Bureau of Minerals and Petroleum has been in accordance with the principle of a single, integrated regulatory process, the so-called one stop shop principle. Enterprises and citizens have needed only to contact the Bureau of Minerals and Petroleum which has then applied a single, integrated regulatory process and has to the extent necessary involved other authorities.

The principle was introduced as part of the recommendations of the Ølgaard report as the overall advantages of this principle are considerably greater than the potential disadvantages. The industry finds a single regulatory process attractive as the industry needs only contact one authority for an overall approval of activities. At the same time, this ensures that the necessary expert knowledge is established and that mineral resource activities are assessed as a whole where all activities are assessed in relation to the overall impact on the environment and society.

The trend in the rest of the world is also in the direction of mineral resource activities being approved and considered by a single authority.

It is proposed that the administration should be continued in the light of this principle and on the basis of the above-mentioned recommendations as well as experience of this form of administration. The principle is one of the most important competition parameters in relation to other countries as case processing times are reduced considerably. It is also ensured that the necessary competences are available in a unit to assess questions relating to mineral resource activities.

In connection with onshore working environment where the Danish Working Environment Authority is the authority responsible according to the Greenland Working Environment Act a cooperation agreement concerning supervision in the mineral resource area has been concluded. This agreement is renewed as regards onshore mineral resource activities. The Danish Working Environment Authority will continue to be the authority to contact concerning the onshore working environment.

According to the bill, the Mineral Resource Authority is the authority responsible for the area of mineral resources and the subsoil in Greenland, including all matters relating to mineral resources, mineral resource activities, use of the subsoil and related energy activities. The Mineral Resource Authority is therefore the authority responsible for the activities covered by the bill.

The Mineral Resource Authority is to continue as an authority that applies a single, integrated regulatory process. This process covers all matters and rules relating to mineral resources, mineral resource activities, use of the subsoil and related energy activities.

All administrative activities that concern mineral resources, mineral resource activities, use of the subsoil or related energy activities will therefore be the responsibility of the Mineral Resource Authority. Thereby the bill seeks to achieve a holistic regulatory process in the fields of administration that have as a necessary prerequisite knowledge of specialised subjects such as geological, technical and financial matters in relation to mineral resource and subsoil activities as well as matters that may be of importance to safety, health, the environment, resource utilisation and social sustainability.

Furthermore, in its capacity as a single, integrated authority the Mineral Resource Authority must ensure and strengthen professional environments capable at all times of handling tasks at the level and within the processing times that are required in connection with the administration of mineral resources and the subsoil, and which the national and international mineral resource enterprises expect.

Finally, the Mineral Resource Authority must contribute to coherent management and prioritisation of the administrative area. In this way allowance can be made, for example, for the need to view and look after the economic and business interests of the Greenland society in the mineral resource and subsoil activities in relation to consideration for safety, health, the environment, resource utilisation and social sustainability.

The present Bureau of Minerals and Petroleum has throughout a number of years acquired extensive experience and insight into the administration of the mineral resource area and the handling of administrative tasks related to the mineral resource area, including tasks concerning technical, trade-related and environmental matters.

After the commencement of the Act, the present organisation of the Bureau of Minerals and Petroleum will continue to be responsible for the administration of the mineral resource area and related energy activities as well as subsoil activities. The implication of this is that the relevant knowledge and experience of these activities will be kept together and that the regulatory process can continue to be integrated across different areas of specialisation.

It is expected that the single, integrated regulatory process will provide the best basis for the decisions of the Greenland Government on matters in the area of mineral resources and the subsoil that are of importance to society.

It is also assumed that extensive coordination will take place in relation to the general legislation concerning coincident administration so that the general administrative authorities will be involved via response papers and coordinated supervision. The general environmental



and technical approvals and the regulatory process in respect of mineral resource activities must, however, be the responsibility of staff with experience of and insight into projects of this type. This is the reason for the close cooperation of the Bureau of Minerals and Petroleum with the National Environmental Research Institute (NERI) and the Geological Survey of Denmark and Greenland (GEUS).

Finally, the Mineral Resource Authority is the responsible and competent authority under other acts and rules with regard to mineral resources, mineral resource activities, use of the subsoil and related energy activities.

This administration will take place in close cooperation with the general administrative authorities in these areas in order to ensure that the general policy in the area is considered.

It is proposed that in accordance with the practice observed so far in the licences, the Greenland Government should be able to lay down terms on all matters concerning the licences. Furthermore, the Greenland Government may lay down provisions on licence terms for all matters relating to licences, for example in the form of executive orders, standard rules, standard terms or model licences, etc.

#### **2.4. Collection and extraction of minerals without a licence**

Section 2 of the current Mineral Resources Act provides that prospecting, exploration and exploitation of mineral resources in Greenland may be carried out exclusively under licences granted in accordance with the provisions of the Act. The Mineral Resources Act contains an exception to that provision in section 32. It establishes that the resident population of Greenland may as hitherto collect and extract mineral resources without this requiring a separate licence under the Act.

The interpretative notes to the 1978 Mineral Resources Act stated as follows in the explanatory notes to section 30 of the bill, which is identical in contents with the provision in section 32 of the current Mineral Resources Act from 1991:

*"Section 30 of the bill aims to maintain the practice that has developed on the basis of the principle in section 1(2) of the current Act to the effect that certain forms of collection and extraction of mineral resources do not require a special licence. The proposed provision will, as hitherto, cover gemstones (semiprecious stones) and similar resources as a basis for the manufacture of handicraft articles as well as mineral resources for use locally as building materials or for heating purposes and similar purposes: as hitherto, collection will be limited to activities that are not of an industrial nature with related major investments; see the explanatory notes to section 1."*

According to the bill, persons who are residents of and fully liable to pay tax in Greenland may to a limited extent perform certain mineral resource activities without a licence.

Thus, in section 45, the bill contains a provision that maintains and specifies that the population of Greenland may, as hitherto, to a limited extent collect and extract minerals without this requiring a licence. The provision clarifies that, as hitherto, exploitation is permitted only with the use of handheld tools. Thus, such exploitation may be carried out only by the collection of loose minerals or by the extraction of minerals by means of small

handheld tools such as hammers, chisels, crowbars and pickaxes. The provision specifies that individuals collecting and extracting minerals without a licence must be permanently residing and fully liable to pay tax in Greenland.

According to section 45(1) of the bill, a limitation in terms of value is introduced for the volume of minerals that the Greenland population may collect and extract without a licence under that provision. The value of the minerals extracted under the provision is not permitted to exceed DKK 100,000 annually.

As opposed to previously, collection and extraction is not limited to minerals for small-scale handicraft articles and activities that are not of an industrial nature with related major investments. This means that all types of minerals may be collected and extracted with a view to commercial processing and resale.

According to section 46 of the bill, local authorities may upon special approval from the Greenland Government collect and extract less valuable minerals to be used locally as road and building materials, etc. for the establishment and maintenance of common roads, open spaces, quays, houses, buildings, etc.

According to section 47 of the bill, the Greenland Government may approve that a specific type of local enterprise (so-called concrete centres) collect and extract gravel, stone and similar minerals to be used locally as road and building materials, etc.

Thus the provisions exempt the areas concerned from the licence system of the bill. This also means that the enterprises in question will be subject to the general rules on land allotment and other approvals and permits required to carry on the activities in question.

## **2.5. The environment and climate**

Parts 13 and 14 of the bill contain rules on environmental protection, environmental liability and responsibility and compensation for environmental damage. In addition, Part 15 of the bill contains rules to the effect that a number of activities may be performed only if an environmental impact assessment (EIA) has been made.

Reference is made to the explanatory notes to Parts 13-15.

## **2.6. Social sustainability and social sustainability assessment**

The bill contains rules on social sustainability, for example in sections 2, 83 and 84.

Furthermore, Part 16 of the bill contains rules on the making of a social sustainability assessment (SSA), including the impacts of activities on society. The requirements concerning social sustainability have the effect, for example, that assessments must be made of the impacts the activities may have on local communities and of the measures that can and should be taken to avoid or counteract significant negative impacts on local communities.

Reference is made to the explanatory notes to Part 16.

## **2.7. Health and safety for offshore hydrocarbon activities**

The working environment area is regulated by the Greenland Working Environment Act; see Consolidation Act No. 1048 of 26 October 2005. The Working Environment Act applicable to Greenland applies to onshore work and to exploitation of mineral resources, including also offshore activities, as opposed to what applies in Denmark where the Danish Working Environment Act does not apply to offshore facilities. In Denmark, the working environment area in respect of offshore work is regulated in the Danish Offshore Safety Act; see Act No. 1424 of 21 December 2005.

The working environment area is covered by list II of the Act on Greenland Self-Government as one of the fields of responsibility where a part of the field of responsibility may be taken over separately. The Greenland Working Environment Act is a framework act and an enabling act which contains propriety provisions phrased in general terms. The authority to lay down rules on health and safety as regards offshore work has not been used so far.

The rules of Part 17 of the bill on health and safety in connection with offshore facilities replace the Greenland Act on Working Environment as regards the areas to which they apply. The rules cover both physical safety, i.e. the safety of the structure of exploitation facilities or subsoil facilities, and the health and safety of employees in connection with the work. With the taking over of health and safety for offshore work as a field of responsibility, additional overall regulation of safety, health and environmental matters in connection with offshore activities is established. The aim of this is to concentrate the political and administrative responsibility for safety matters under the Greenland Government with a view to establishing a basis for an overall and more simple and clear set of safety rules and concentration and coordination of the supervisory functions.

The Greenland Government will lay down specific provisions on health and safety on offshore facilities through an executive order. The specific regulation will cover design, construction, installation, operation, maintenance, alteration and dismantling of facilities, supervision, approvals, matters relating to emergency preparedness, working conditions, etc.

Reference is made to the explanatory notes to Part 17.

### **3. Economic and administrative consequences for the public sector**

The bill is in accordance with the Greenland Government's policy that the mineral resource sector must be a growth industry that contributes to the overall economic growth of Greenland. It is expected that a large part of this growth will be attained through job creation in the mineral resource sector, which will generally increase the standard of living and make a contribution to society in the form of increased tax deducted from income at source.

Thus, the bill aims to ensure a number of positive economic and administrative consequences for the public sector. However, any attempt to estimate in money terms what the consequences of the bill will be for the Greenland economy and public finances is bound up with great uncertainty since the mineral resource sector is to a very great extent affected by global economic trends and thereby demand and market prices of mineral resources.

The Act on Greenland Self-Government assumes that an agreement will be concluded between the Greenland Government and the Danish Government that will apply from immediately after Greenland has taken over the field of responsibility. It is assumed that the agreement will be in force for a period of five years. Similar subsequent agreements may be concluded. Such agreements must contain the following elements:

The Greenland Government will get access to consultancy, etc. to the same extent as in the previous cooperation with GEUS and NERI. It is assumed that the payment for such services will correspond to the expenses that GEUS and NERI have had until now as a result of the performance of these tasks, i.e. an annual payment which was in 2004 DKK 3.0 million and DKK 2.2 million, respectively, to GEUS and NERI, respectively. The total expense is DKK 6.1 million at the 2010 price level. Therefore an additional grant is applied for of DKK 6.1 million for the Bureau of Minerals and Petroleum to pay for the obligation laid down in the Act on Greenland Self-Government to conclude the above-mentioned agreements with GEUS and NERI.

It must be expected that additional funds must be reserved for upgrading professional qualifications and an extension of staff concerned with the administration of mineral resources. As far as possible, these costs will be covered by the reimbursements of expenses by licensees in connection with the regulatory process.

Any possible disadvantages of double competences in the administration as a result of the integrated regulatory process are expected to be insignificant as the competence of the Mineral Resource Authority will to a great extent be aimed at technical insight into the mineral resource sector and not at the general administration. These will be competences that the general administrative authorities will not generally possess. Where the regulatory process does not require such knowledge of the mineral resource sector, coordination will to a greater extent take place with the general administrative authority concerning such matters. The areas involved are for example the establishment and operation of harbour facilities and piers, etc.

#### **4. Economic and administrative consequences for trade and industry**

Owing to shifts in the demand for the various mineral resources it is not possible to list the positive consequences for Greenland trade and industry in money terms in any meaningful way. However, the positive effect for Greenland enterprises will depend on whether Greenland enterprises will be capable of supplying the services and supplies demanded by the mineral resource sector.

With regard to the size of current fees that a licensee must pay and work commitments that a licensee must meet, reference is made to the explanatory notes to sections 15 and 16 as regards prospecting, exploration and exploitation licences.

Generally, the bill does not lead to an increase in financial or administrative burdens for trade and industry. As a new feature, however, a provision has been introduced to the effect that certain local activities relating to building materials, such as gravel, must be approved by the Greenland Government. The reason for this is a wish to standardise the conditions for such enterprises, for example by requirements for the reduction of dust and noise.

#### **5. Consequences for the environment and nature**

The bill established that activities under the Act must be performed in a sound manner as regards safety, health, the environment, resource utilisation and social sustainability.

The bill contains a number of parts and rules on protection of the environment, the climate and nature as well as on prevention, limitation and combating of pollution and other negative impact on the environment, the climate and nature. Furthermore, the bill has a part and a number of rules on social sustainability. Part 13 of the bill contains provisions on the need to carry out an environmental impact assessment before a decision can be reached on approval in the instances where the projects and activities may have a significant impact on the environment. The mineral resource area is thereby the first area in Greenland in which statutory requirements are imposed concerning the performance of an environmental impact assessment.

Under any circumstances, mineral resource activities will to a certain extent have an impact on nature. The bill sets the stage for ensuring in all cases that these impacts are solely of a temporary nature in the form of noise and similar limited and temporary nuisance.

## **6. Administrative consequences to citizens**

The bill is primarily aimed at the commercial exploitation of mineral resources by companies and individuals. Therefore, the bill will generally have no consequences for citizens.

However, easier rules have been introduced for the collection of stones by private individuals.

## **7. Relation to the national community and the self-government system**

The bill states the rules according to which the Greenland Self-Government will administer the mineral resource area after a decision has been reached to assume responsibility for the area.

Thereby the bill creates a basis and a framework for the Greenland Self-Government for its taking over of the management, administration and further development of the mineral resource area.

## **Explanatory notes to the individual provisions of the bill**

### *To section 1*

To subsection (1)

The proposed provision states the main purpose of the bill.

As compared to section 1(1) of the current Mineral Resources Act, the proposed provision clarifies that the bill is to ensure appropriate regulation of mineral resource activities and the use of the subsoil in Greenland for storage. Thus, the intention is that the Mineral Resources Act is to be a framework act laying down the main principles for the administration of mineral resource activities and certain subsoil activities and that within this framework the Greenland Government is authorised to lay down the necessary provisions. The Greenland Government may, for example, lay down provisions in executive orders and standard licence terms as well as specific licence terms. The current Mineral Resources Act functions similarly as a framework act for the regulation of the mineral resource area.

Thus the provisions of the bill constitute the general framework for the considerations and areas that will be included and covered by the standard terms and model licences that will be prepared in the area. The bill ensures that dynamic interpretation is possible in the area so that new knowledge and technology in the area can immediately be applied without any need for amending the Greenland Parliament Act.

Appropriate exploitation involves, for example, that the bill aims to ensure that society gets a reasonable share of the financial gain of exploitation of mineral resources, the use of the subsoil and the performance of related energy activities and to ensure that these activities are performed according to the long-term needs of society.

At present the subsoil may, for example, be used for storage of natural gas, and furthermore there is an increasing interest in using the subsoil for heat storage and carbon dioxide storage. Therefore, it has been found natural to extend the scope of application of the Act to also include use of the subsoil for storage and other purposes relating to the extraction of mineral resources where geological and technical insight is relevant in relation to the regulatory process and the supervision of the activities. Activities in relation to use of the subsoil for purposes other than mineral resource activities will therefore not be covered by the provision. By way of example, this could be exploration and exploitation of biological resources.

The subsection is also of importance for the definition of scope in relation to other legislation as the scope of application is limited to activities that can result in exploitation of mineral resources. By way of example, the sale of blast stones from a construction project that has been approved by the local authorities will therefore not come under this bill as the main activity has been the construction of a building and not mineral resource activities.

To subsection (2)

According to the proposed provision, the bill aims to ensure that activities under the Act are performed appropriately as well as in a sound manner as regards safety, health, the environment, resource exploitation and social sustainability.

The bill covers physical safety, or the dependability of a structure, stability, etc. as well as the health and safety of employees in connection with offshore work. Reference is also made to section 9(2) concerning the scope of application of the Act in relation to health and safety on the territorial land.

The health concept of the bill corresponds to the health concept of the Working Environment Act, which means protection against accidents at work and industrial diseases in a traditional sense as well as protection against other impacts that may weaken physical or mental health.

Finally, the bill covers the consideration for the environment in connection with activities as well as general environmental considerations of importance for human beings, animals, plants and nature in connection with performance of mineral resource activities, subsoil activities or related energy activities in Greenland.

Parts 13 and 14 of the bill contain rules on environmental protection, environmental liability and responsibility and compensation for environmental damage. In addition, Part 15 of the bill contains rules to the effect that a number of activities may be performed only if an environmental impact assessment (EIA) has been made and a report on the assessment has been approved by the Greenland Government.

Sound resource utilisation means that the activities must be performed without unnecessary waste of resources and in consideration of society's long-term interests.

The rules on social sustainability are to contribute to ensuring that the planning and administration of activities under this bill will also be based on assessments of the impacts that the activities may have on Greenland society nationally and locally. The proposed rules thus involve demands for holistic planning and administration of all activities covered by the Act.

One of the aims of the demand for social sustainability is to counteract any unintended or significant negative impacts on affected local communities caused by activities and facilities, including impacts on employment opportunities, social balance and cultural values. Another aim of the demand is that it should ensure that activities are planned in such a manner as to ensure that developments in society can take place on a sustainable basis and that the necessary measures are taken to counteract negative impacts on the life of the community.

Part 16 of the bill contains rules on social sustainability and on the making of a social sustainability assessment (SSA).

#### *To section 2*

To subsection (1)

It appears from the proposed provision that the Greenland Self-Government authorities have the right of use of and the right to exploit the mineral resources in the subsoil in Greenland.

This has the effect that if mineral resources are collected or exploited without a licence, the mineral resources or the revenue from exploitation of them will accrue to the Greenland Self-Government.

The bill covers use of the subsoil for storage or purposes relating to mineral resources. Other subsoil activities are regulated by other legislation.

To subsection (2)

According to the provision, mineral resource activities, use of the subsoil for storage or purposes relating to mineral resources, use of energy from water, wind or the subsoil for activities under the Act and establishment and operation of pipelines for activities under the Act may be performed only under a licence granted by the Greenland Government. According to the provision, collection and extraction of minerals is permitted without a licence according to the rules of sections 45-47 of the bill and any provisions laid down in pursuance of section 48.

A basic principle of the provision for regulation of mineral resource and subsoil activities is that the activities can be performed only according to a licence granted by the Greenland Government according to the rules of the Act. Parts 4-8 of the bill contain rules on the granting of licences for mineral resource activities. Part 9 contains rules on the granting of licences for certain subsoil activities. Part 11 of the bill contains rules that to a certain extent allow collection and extraction of minerals without a licence. Part 12 of the bill contains rules on scientific surveys.

Two special exceptions to the general licence requirements of the provision are laid down in subsections (3) and (4).

To subsection (3)

The provision establishes that the Greenland Self-Government can perform scientific surveys of importance to activities under the bill without a licence.

Geological surveys with the aim of publishing geological maps or publication generally of scientific and practical results can still be conducted within the framework of an agreement with GEUS that is assumed to be concluded in connection with the introduction of self-government so that generally GEUS may continuously accumulate knowledge of and appraisals of potential mineral resources.

As compared with section 2(2) of the current Mineral Resources Act, it is proposed that the Self-Government should also be able to conduct scientific and practical surveys concerning the subsoil, including in particular geological surveys for an appraisal of the potential for using the subsoil for storage and other scientific and practical surveys in connection with related energy activities and other related activities.

To subsection (4)

The provision establishes a special and limited exception from the general licence requirement of section 2(2) and section 49.

Under that provision, the Geological Survey of Denmark and Greenland (GEUS) and the National Environmental Research Institute/Aarhus University (NERI) may without a licence conduct research corresponding to the research conducted so far by GEUS and NERI, including co-financed research, of special relevance to mineral resource exploration in Greenland. This research may be conducted without a licence, however, only to the extent and as long as the research is conducted to meet the Danish Government's obligation to make such



research available to the Greenland Government under section 9(4) of the Act on Greenland Self-Government. Thus, GEUS and NERI cannot conduct research or other activities under the bill without a licence if this is not done to meet the Danish Government's obligation to make research available to the Greenland Government under section 9(4) of the Act on Greenland Self-Government, or if the Danish Government no longer has such an obligation.

It appears from section 9(4) of the Act on Greenland Self-Government and section 5.3.6 of the general explanatory notes to the Act on Greenland Self-Government that the Danish Government makes research corresponding to the research so far conducted by public Danish research institutions (GEUS and NERI) of special relevance to mineral resource exploration in Greenland available to the Greenland Government free of charge as long as the agreements mentioned in section 9(2) and (3) of the Act on Greenland Self-Government are continuously renewed. Furthermore, it appears from section 5.3.6 of the general explanatory notes to the Act on Greenland Self-Government as well as the explanatory notes to section 9(4) of the Act on Greenland Self-Government that what is referred to is the basic institution and research assignments, 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 carried out so far by GEUS and NERI of relevance to mineral resource exploration in Greenland.

This means that the exception to the general licence requirement of section 2(2) and section 49 of the bill applies only to research related to the Danish Government's obligation under section 9(4) of the Act on Greenland Self-Government, and it applies only as long as agreements concerning the cooperation in the mineral resource area between the Self-Government and the Danish Government under section 9(2) and (3) of the Act on Greenland Self-Government remain in force. If, for example, after the expiry of the first five-year period of agreement, the Self-Government decides not to renew the agreement, the Danish Government will no longer be obliged to make research of special relevance to mineral resource exploration available to the Self-Government. GEUS and NERI will then have to apply for a licence for research activities under section 49 of the bill in the case of scientific surveys and under section 15 of the bill in the case of actual prospecting.

GEUS's and NERI's research without a licence under section 2(4) of the bill must be conducted in accordance with all applicable acts and rules in Greenland. Not later than 15 December each year, GEUS and NERI will forward a plan of the research activities planned to be conducted in Greenland during the following year under section 2(4) to the Greenland Government.

### *To section 3*

To subsection (1)

It appears from the provision that the Mineral Resource Authority under the Greenland Government is the authority responsible for mineral resources in Greenland, including all matters relating to mineral resources, mineral resource activities, use of the subsoil for certain purposes and related energy activities. The Mineral Resource Authority is therefore the administrative authority in relation to the activities covered by this bill. This provision institutionalises the system up till now in the mineral resource area with a separate Mineral Resource Authority who is to be responsible for the central practical administration of the decisions reached by the Greenland Government and the administrative tasks that must

otherwise be performed in pursuance of this Act and other legislation of importance to activities under this Act. Under the current Mineral Resources Act, these tasks have until now been the responsibility of the Bureau of Minerals and Petroleum under the Greenland Government.

In relation to the Danish Government, the new mineral resource system and the revenue definition provided for by the Act on Greenland Self-Government have as a prerequisite that the overall administration of the mineral resource area must be organised and defined in relation to the remaining administration so that grants, staff assignments, etc. as well as revenues from fees, etc. that may be collected to cover expenses under the auspices of the Mineral Resource Authority may be identified and attributed to the field of responsibility in a controllable way.

This does not mean that it has been decided whether the Mineral Resource Authority should be organised under a department or direct under the competent member of the Greenland Government, but future changes in the exercise of regulatory authority in the mineral resource area must be effected subject to the revenue definition continuing to be in accordance with the intentions of the Act on Greenland Self-Government.

To subsection (2)

The proposed provision establishes that the Greenland Government must ensure that the exercise of regulatory authority in the mineral resource area is organised as a single, integrated regulatory process. The regulatory process comprises all matters and rules relating to mineral resources, mineral resource activities, use of the subsoil for storage or purposes related to mineral resource activities and related energy activities.

A single, integrated regulatory process is to contribute to a holistic regulatory process in the technically difficult fields of administration that have as a prerequisite knowledge of geological, technical and financial matters in relation to mineral resource and subsoil activities as well as knowledge of matters that may be of importance to safety, health, the environment, resource utilisation and social sustainability.

Furthermore, a single, integrated regulatory process is to guarantee and strengthen professional environments capable at all times of handling tasks at the level required in connection with the administration of the area of mineral resources and the subsoil, and which the national and international mineral resource enterprises expect.

Finally, the Greenland Government must ensure coherent management and prioritisation of the administrative area. In this way allowance can be made, for example, for the need to view and look after the Greenland society's economic and business interests in mineral resource activities and related subsoil activities in relation to consideration for safety, health, the environment, resource utilisation and social sustainability.

A single, integrated regulatory process will allow the administrative authority to perform and coordinate the administrative work better and more easily and reduce double work and lack of clarity in the division of labour.

The Mineral Resource Authority will be responsible for all administrative activities in the mineral resource area, including administrative activities in relation to mineral resource

activities, subsoil activities and related energy activities. A prerequisite for this is that the relevant knowledge and experience of these activities is kept together and that the regulatory process is integrated across different areas of specialisation. It is expected that the single, integrated regulatory process can improve the basis for the decisions of the Greenland Government on important social issues relating to mineral resources and the subsoil.

The administration of the mineral resource area was transferred on 1 July 1998 from the Danish Minister for the Environment and Energy/the Mineral Resources Administration for Greenland to the Greenland Home Rule Government/the Bureau of Minerals and Petroleum so as to establish overall experience and insight in the mineral resource area in Greenland and with regard to the handling of the administrative tasks related to the mineral resource area, including tasks concerning geological, technical trade-related and environment matters.

In order to ensure that the relevant knowledge and experience that has been established concerning these activities can continue to be preserved and developed, the principle of the single, integrated regulatory process is carried on with this provision. At the same time as the mineral resource area is taken over completely, the working environment area is taken over as regards offshore work. It is expected that the single, integrated regulatory process will allow the administrative authority to perform and coordinate the administrative work better and more easily and reduce double work and lack of clarity in the division of labour.

The provision is supplemented by the proposed provision in subsection (3). It means that as has been the case until now, the Mineral Resource Authority is also the responsible and competent authority under other acts and rules with regard to mineral resources, mineral resource activities, use of the subsoil for storage or purposes related to mineral resource activities and related energy activities.

To subsection (3)

According to the proposed provision, the Mineral Resource Authority is to consider matters in its capacity as regulatory authority on the basis of this bill and provisions laid down pursuant to the bill. As has been the case until now, the regulatory authority is also to consider matters on the basis of other acts or rules of relevance to mineral resources, mineral resource activities, use of the subsoil for storage or other purposes relating to mineral resource activities and related energy activities, related pipeline activities and other related activities unless other acts or rules provide that other authorities must consider such matters. Finally, the provision provides that the Mineral Resource Authority is the responsible and competent authority under these other acts and rules with regard to mineral resources, mineral resource activities, use of the subsoil for certain purposes and related energy activities, related pipeline activities and other related activities. Reference is also made to section 9(2) concerning the scope of application of the Act in relation to health and safety on the territorial land.

#### *To section 4*

To subsection (1)

The provision establishes the duty of the Greenland Government to inform a committee appointed by the Greenland Parliament of activities, etc. under the Act. It is expected that the mineral resource area will become increasingly important economically and commercially to Greenland, and when the Self-Government takes over the mineral resource area it would be natural for the Greenland Parliament to appoint a committee that can attend to the

parliamentary insight into and supervision of the field of responsibility. The purpose of the bill is not to anticipate the future decisions of the Greenland Parliament concerning the appointment of a special mineral resource committee or the distribution in general of competences and tasks among the committees of the Greenland Parliament.

To subsection (2)

The provision establishes a duty for the Greenland Government to prepare and publish a report each year on activities under the Act. The intention is that the report should function as the Greenland Government's general information to the Greenland Parliament and the public on the activities under this bill.

The Greenland Government submits the report to the members of the Greenland Parliament and it is expected that the report will be published on the website of the Greenland Government.

#### *To section 5*

To subsection (1)

The proposed provision establishes the meaning of the term mineral resources. Mineral resources means hydrocarbons and minerals.

According to the provision, the designation mineral resources is thus a collective designation for hydrocarbons and minerals as defined in subsections (2)-(5).

To subsections (2)-(4)

The provisions specify the meaning of hydrocarbons.

According to subsection (2), the term hydrocarbons is defined as oil and natural gas and these terms are specified in subsection (3) and subsection (4), respectively.

According to subsection (3), oil means all hydrocarbons that are in a liquid state at standard atmospheric pressure (1.01325 bar) and temperature (15° Celsius).

According to subsection (4), natural gas means all hydrocarbons that are in a gaseous state at standard atmospheric pressure (1.01325 bar) and temperature (15° Celsius).

The provision corresponds to item 101 (c) of the model licence for the open door procedure for licences for exploration for and exploitation of hydrocarbons in Greenland (2008). Item 101 (c) has the following wording:

*"Hydrocarbons" means oil/condensate and natural gas, where*

*– "Oil/condensate" means all hydrocarbons that are in a liquid state at standard atmospheric pressure (1.01325 bar) and temperature (15°C); and*

*– "Natural gas" means all hydrocarbons that are in a gaseous state at standard atmospheric pressure (1.01325 bar) and temperature (15 °C). Non-hydrocarbon gas in association with*

*and produced together with such gaseous hydrocarbons shall also be treated as natural gas under the terms of this Licence for the purpose of calculating royalty."*

The provision also states that an extended definition of natural gas applies for the purpose of calculating royalty. In this context, the definition of natural gas also includes other gas in association with and produced together with such gaseous hydrocarbons.

The same appears from the provision in item 101 (c) of the model licence for the open door procedure (2008) reproduced above. Thus the extended definition of natural gas in the context of royalty already applies in the instances where the model licence or corresponding licences apply. According to the second sentence of section 5(4) of the bill, this is now provided for directly by the wording of the provision.

To subsection (5)

The provision defines minerals as mineral resources other than hydrocarbons.

To subsection (6)

The proposed provision authorises the Greenland Government to lay down specific provisions on the definitions and matters mentioned in subsections (1)-(4). This authorisation aims to ensure that the Greenland Government has the possibility of laying down provisions that can clarify any problems of interpretation that might arise in the application of the definitions. Thus the intention is also that this authorisation may be used to solve any practical problems that might arise in the application of the definitions and which could not be foreseen when the Act was adopted, including questions of categorisation of, for example, tar sand and inert gases.

#### *To section 6*

The provision defines offshore facilities.

To subsection (1)

Exploitation (production) includes extraction from wells and subsequent processing of hydrocarbons at the facilities.

It is pointed out in subsection (1)(i)(b) that accommodation installations such as flotels and (converted) drilling rigs that function as accommodation for crew on a facility that meets the conditions of subsection (1)(i)(a) are also regarded as offshore facilities.

The platforms and other installations mentioned in subsection (1)(i)(c) that are used for piped transport of hydrocarbons or ancillary materials include pipelines, compressors, pumps and so-called booster platforms, i.e. platforms with equipment that adds pressure to natural gas with a view to transporting the gas via the pipeline.

It is pointed out in subsection (1)(i)(d) that related offshore energy installations established to supply energy in connection with exploration and production of hydrocarbon are also regarded as offshore facilities.

Furthermore, it is pointed out in subsection (1)(ii) that also storage facilities for the hydrocarbons that are produced offshore are covered by the definition of offshore facilities.

To subsection (2)

It is pointed out in subsection (2) that ships except drillships and floating processing, storage and shipping units are not covered by the definition of offshore facilities.

To subsections (3) and (4)

Mobile units are defined as facilities that can either sail unaided or can be towed and which are in addition intended for use in several different positions in their lifetime. Fixed offshore units include all other facilities not covered by the definition of mobile offshore units. Fixed units, therefore, are facilities that are permanently placed at one location irrespective of whether they are anchored to the sea floor or not.

To subsection (5)

The definition in subsection (1) covers single platforms or installations. In many cases, fixed units consist of groups of platforms mutually connected by bridges. The provision of subsection (5) establishes that such groups are considered one single unit, provided that they have the same licensee or the same owner. In rare cases where the units appear as one unit they should be considered two units, however, if there are several owners.

*To section 7*

The provision defines accommodation vessels.

The provision is to ensure that crew working on an offshore facility but who, owing to lack of space, are accommodated on a ship or another installation have the same accommodation facilities as crew accommodated on offshore facilities. Notwithstanding that generally the bill does not cover the structure, maritime equipment and layout of such vessels under section 6(2), the provision means that the bill covers the accommodation facilities of such vessels and other matters of importance to the accommodation facilities or their use.

The provision is intended to be used for employees with a relatively permanent connection with the offshore facility they work on. The definition does not cover ships used to transport passengers to and from offshore facilities, irrespective of whether such ships have accommodation facilities on board.

*To section 8*

The provision defines offshore vessels.

The provision covers any vessel that is not covered by the provisions of sections 6 and 7 and which perform activities in relation to offshore facilities or offshore energy installations.

The provision means that the tasks performed by vessels in relation to offshore facilities or offshore energy installations are covered by relevant parts of the bill. The provision covers tasks that are performed by, for example, a barge crane. Furthermore, the provision aims to cover, for example, service vessels, supply vessels, emergency vessels, tug boats and anchor handling boats. Such vessels are normally used for short periods at a time. Notwithstanding that the bill does not cover the structure, maritime equipment and layout of such vessels under section 6(2), the provision means that the bill partly covers the activities performed from

these types of vessel as part of exploration, exploitation or transport of hydrocarbons or the equipment used for such purposes.

*To section 9*

This provision defines the geographic 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 Greenland territorial sea extends three nautical miles (5,556 metres) from the base line.

Pursuant to Article 76 of the Convention on the Law of the Sea, the continental shelf covers the sea floor and its subsoil in the area extending from the extreme limit of the territorial sea of the coastal state in the entire natural extension of the territorial land of the coastal state to the extreme edge of the continental shelf margin. The continental shelf can always be extended to a distance of 200 nautical miles from the base lines, from which the width of the territorial sea is measured, also in the instances where the extreme edge of the continental margin is closer to these base lines. In those cases where the continental shelf of the coastal state borders on parts of the continental shelf of other states, the delimitation is to be determined through agreement between the neighbouring states according to the Shelf Convention. The continental shelf off Greenland is not fully delimited in relation to neighbouring states. The rights of the coastal state over the continental shelf are not conditional upon formal occupation or a declaration of any kind. The rights over the continental shelf exist in pursuance of Article 77 of the Convention on the Law of the Sea a priori and independently of delimitation of the continental shelf.

Section 6 of the Continental Shelf Act, as amended by section 98(3) of the bill, provides that the bill and any other existing law in Greenland applies to facilities located in the shelf area with a view to exploration or exploitation of the continental shelf off Greenland and in safety zones around the facilities. In accordance with this, it is proposed that the bill should extend to such facilities and safety zones around facilities, etc. This means furthermore that the safety zones fall within the scope of the powers of the Greenland Self-Government according to the bill, insofar as the bill regulates matters concerning the safety zones.

To subsection (2)

The provision of subsection (2) limits application of the rules of the Act on health and safety in respect of work performed on the territorial land to the stipulation of terms concerning health and safety in licences, unless otherwise provided in working environment legislation. The responsibility for the working environment can be taken over in pursuance of section 3(2) of the Act on Greenland Self-Government after negotiations with the central authorities of the Realm. The responsibility for health and safety in respect of offshore work can be taken over separately according to section 2(3) of the Act on Greenland Self-Government.

According to the provisions of Part 17, the Self-Government authorities take over as a field of responsibility only the part of the working environment that concerns offshore work; see section 79 authorising the Greenland Government to lay down specific provisions on health and safety at work applicable to offshore work.

The current Greenland Working Environment Act applies also to offshore activities. In Greenland, the supervision of offshore activities is exercised by the Danish Working

Environment Authority assisted by the Danish Energy Agency. In Denmark, offshore work in connection with exploration for and production of hydrocarbons is the responsibility of the Danish Energy Agency; see Act No. 1424 of 21 December 2005 on Safety etc. on Offshore Installations for Exploration, Extraction and Transport of Hydrocarbons (Offshore Safety Act). In connection with transfer of the administration for mineral resource activities from the Danish Minister for the Environment and Energy/the Mineral Resources Administration for Greenland to the Greenland Home Rule Government/the Bureau of Minerals and Petroleum at 1 July 1998 no decision was reached on transfer of health and safety offshore as a field of responsibility. In the period since 1998, offshore activity with exploration wells has been limited and therefore there has been no pressing need to change the exercise of regulatory authority in this field.

It can be expected that within a short span of years activities in relation to offshore exploration for and exploitation of hydrocarbons will increase. This means that there will be a need for the stipulation of rules in the working environment area for offshore work, and these rules must be prepared in consideration of the special conditions that exist in the offshore area in the same way as the Offshore Safety Act that applies in Denmark.

To subsection (3)

Marine environment has not been transferred to the Greenland Self-Government as a field of responsibility, and therefore the provisions of the bill on the environment do not apply to the continental shelf area outside the Greenland territorial sea and the exclusive economic zone insofar as the marine environment legislation provides otherwise

*To section 10*

The provision establishes the activities to which this bill applies.

According to paragraph (i) of the proposed provision, this bill applies to prospecting, exploration and exploitation of mineral resources as well as other activities related thereto in Greenland.

According to paragraph (ii), this bill also applies to prospecting and exploitation of energy from water and wind for activities under this bill as well as other activities related thereto in Greenland.

According to paragraph (iii), use of the subsoil for purposes other than those mentioned in paragraphs (i) and (ii), including storage purposes, and other activities of importance to mineral resource activities will be covered by this bill.

Finally, scientific and other surveys of importance to the activities mentioned in paragraphs (i)-(iii) will be covered; see paragraph (iv).

*To section 11*

The provision establishes the basis of this bill in relation to the use of facilities and installations.



Generally, this bill applies to facilities, installations, etc. that are located on the territorial land or in the territorial sea or in the continental shelf area and which are used in connection with activities under this bill.

The subsequent rules of the bill involve a number of modifications, however; see sections 12-14 of the bill.

*To section 12*

The provision establishes that this bill applies to fixed and mobile offshore units in the territorial sea or in the continental shelf area.

Thus subsection (1) proposes that the geographic scope of this bill should include the Greenland territorial sea and continental shelf, which corresponds to the area where according to international law Greenland has the exclusive rights to exploration and exploitation of natural resources. Therefore, it is of no importance whether a specific offshore unit is registered in Greenland, Denmark or in another country, or whether it is Danish-owned or foreign-owned.

*To section 13*

The provision establishes that the rules of this bill apply to the activities and the equipment used on offshore vessels insofar as this is of importance to the safety, health or environmental conditions on the related offshore facilities.

*To section 14*

To subsection (1)

According to the proposed provision, this bill applies in the safety zones around the offshore facilities and accommodation vessels mentioned in section 6 and section 7, respectively.

To subsection (2)

Furthermore, it is proposed that within the safety zones, this bill should apply to ships, other marine vessels and aircraft, to mobile offshore units and other mobile facilities and installations that are sailing, being towed or anchoring in that connection as well as to fishing equipment, anchors, other mooring equipment, other equipment and other objects in the safety zones. This bill applies irrespective of whether these vessels and facilities, etc. are Greenland-owned, Danish-owned or foreign-owned.

Aviation is a government field of responsibility, and aviation legislation applies unconditionally to civil aviation in Greenland territory, including safety regulations with which facilities, including offshore facilities, must comply if they are to be used for aircraft take-off and landing.

Similarly, shipping is a government field of responsibility, and the bill therefore involves no amendments to the shipping legislation applicable to Greenland, including also current rules for building and fitting out ships, etc. as well as rules on health and safety on board ships and mobile facilities when these are not engaged in activities that are part of exploration, exploitation or transport of hydrocarbons or the equipment used.

To subsections (3) and (4)

The provision of subsection (4) states that the safety zones laid down in subsection (3) extend 500 metres around the facilities or vessels, measured from any point on their outer edges or from any other marking used. In the vertical plane, the safety zone extends from the sea floor to 500 metres above the highest point of the facility, vessel or markings used on such facility or vessel. In the horizontal plane, the safety zone extends 500 metres from each point of the outer edges of the facility, accommodation vessel or any markings used, at the position where such edges are located at any time.

To subsection (5)

The provision authorises the Greenland Government to decide to deviate from the extent of 500 metres laid down in subsection (4). Such deviations will be published in Notice to Mariners as well as in a national newspaper as well as on the Greenland Government's website.

According to Article 60(5) of the Convention on the Law of the Sea, the width of safety zones around facilities and installations in the exclusive economic zone is not permitted to exceed 500 metres, measured from any point on their outer edge, except where this is permitted according to generally accepted international standards or recommended by the competent international organisation. It is assumed that the provision will be administered in accordance with the above Article.

To subsection (6)

The provision authorises the Greenland Government to extend existing safety zones or establish new zones in danger or accident situations if such situations involve a risk of injury or damage and insofar as it is necessary to prevent, avoid or limit the damaging effects.

According to Article 60(5) of the Convention on the Law of the Sea, the width of safety zones around facilities and installations in the exclusive economic zone is not permitted to exceed 500 metres, measured from any point on their outer edge, except where this is permitted according to generally accepted international standards or recommended by the competent international organisation. It is assumed that the provision will be administered in accordance with the above Article.

The provision corresponds to section 35 of the Norwegian regulations of 31 August 2001 no. 1016 relating to health, environment and safety in the petroleum activities (the framework regulations).

#### *To section 15*

To subsections (1)-(2)

The provision concerns the granting of licences for prospecting for mineral resources as well as other use of the subsoil. A licence for prospecting is granted for up to five years at a time. The granting of licences referred to in subsection (1) does not exclude that similar licences may be granted to others. Furthermore, it appears from the provision that the Greenland Government may stipulate terms for the licence, including terms concerning payment of fees as well as reimbursement of expenses in relation to consideration by the authorities of licences.

Essentially, the provision corresponds to section 6 of the current Mineral Resources Act.

Prospecting typically includes preliminary exploratory studies of limited scope. The aim of such prospecting will normally be to create a basis for a licensee's initial evaluation of the prospects of initiating actual exploration in the area concerned.

Licences under section 15, which are granted for a period of up to five years, must state the area and the types of mineral resources to which they apply. The provision does not exclude renewal of a prospecting licence.

A licence under section 15 is not exclusive and therefore does not exclude that similar licences covering in full or in part the same area may be granted to others. Nor does the granting of such a licence involve any undertaking in relation to the licensee of the licensee being able to gain a right to or being favoured for a licence under section 16 for exploration or exploitation at a later time.

To subsections (3)-(4)

The provision of subsection (3) allows the Greenland Government to stipulate terms, including terms on payment of consideration. The consideration referred to is the proceeds of the Greenland Treasury on sale of rights relating to the Greenland subsoil. The size of the proceeds will be fixed on the basis of the prevailing market conditions in the mineral resource sector.

Furthermore, the Greenland Government may according to subsection (4) lay down provisions on the payment of a fee for the granting of licences under subsection (1) or reimbursement of expenses in relation to consideration by the authorities of licences.

The provisions on payment of fees apply correspondingly both in the current Mineral Resources Act and in the Danish Subsoil Act.

According to the current standard terms of 16 November 1998 for prospecting licences for minerals, fees will be adjusted each year on the basis of changes in the consumer price index from January 1992 to January in the actual year. At 1 January 2009 the following fees apply to hard minerals:

1. Fee upon application	DKK 3,000
2. Fee upon granting of licence	DKK 21,165
3. Fee upon transfer	DKK 10,583

As regards prospecting licences relating to hydrocarbons, other special fees will be fixed.

#### *To section 16*

To subsection (1)

The proposed provision concerns the granting of exclusive licences for exploration and exploitation of mineral resources, the establishment and operation of pipelines and for use of the subsoil for other purposes. It appears from the provision that licences may be granted separately for exploration and exploitation, respectively. According to the proposed provision,

a licence for exploitation of mineral resources may be granted only as an exclusive licence, unless it is a question of a small-scale exploitation licence that may under section 33 also be granted as a non-exclusive licence.

Exploration activities are typically more detailed surveys, for example geological, geochemical and geophysical surveys and drilling of wells together with the establishment of tunnels and shafts, etc. The nature and scope of the exploration activities will generally depend on whether they are aimed at hydrocarbons, hard minerals, the establishment and operation of pipelines or whether the activities are for use of the subsoil for other purposes and utilisation of hydropower.

Exploration and exploitation activities comprise all activities carried out by or on behalf of the licensee according to the licence, including the establishment of the necessary infrastructure and activities in support of exploration or exploitation activities.

Subsection (1) further provides that a licence is granted for a specific area that is defined in the licence. The mineral resources covered must also appear from the licence.

To subsection (2)

The proposed provision concerns the possibility of laying down provisions in licences on gradual reduction of the area covered by the licence and on the stipulation of the work commitments to be fulfilled by the licensee.

The provision corresponds to section 7(2) of the current Mineral Resources Act.

The provision in subsection (2) concerns the possibility of laying down provisions in a licence on gradual reduction of the area covered by the licence during the exploration period.

Furthermore, the provision allows the stipulation of terms to the effect that the licensee must fulfil specially stipulated work commitments. According to the current standard terms of 16 November 1998 for exploration licences for minerals, the exploration commitments at 1 January 2009 constitute the following amounts per licence per calendar year

Years 1-2:	DKK 141,100
Years 3-5:	DKK 282,200
Years 6-10:	DKK 564,400

Amounts per km<sup>2</sup> per calendar year:

Years 1-2:	DKK 1,411 per km <sup>2</sup>
Years 3-5:	DKK 7,055 per km <sup>2</sup>
Years 6-10:	DKK 14,110 per km <sup>2</sup>

To subsection (3)

The proposed provision establishes a number of demands made on the companies to which an exploitation licence is granted for exploitation of mineral resources.

The provision is based on and enacts the corresponding provision in section 7(3) of the current Mineral Resources Act that was amended by the Act of 19 May 2009 on various

matters in connection with the Greenland Self-Government as well as explanatory notes to the Bill on Greenland Self-Government, in which the following is stated:

*"As has been the case until now it must be ensured upon the granting of exploitation licences 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 Self-Government has taken over the mineral resource area.*

*This means that in connection with the granting or change 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 Income Tax Act, unless the Bureau of Minerals and Petroleum demonstrates that the licence involves fees that are at least as onerous and which are fully included 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 are subject to the same capitalisation requirements as licensees in foreign groups; that generally the licensee trades at arm's length prices and on arm's length terms; that the licensee's form of organisation, 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."*

According to the proposed provision, a licence for exploitation of mineral resources may be granted only to a limited company, unless the licence is a small-scale exploitation licence. A small-scale licence, on the other hand, may be granted only to a person who is a permanent resident of and fully liable to pay tax in Greenland; see section 32(2).

A company that is a licensee under an exploitation licence may only perform activities under licences granted under this bill and must not be taxed jointly with other companies, unless joint taxation is compulsory. As a main rule, such a company must have its registered office in Greenland. The company must not be more thinly capitalised than the group of which the company forms part, but the company's loan capital may always exceed the shareholders' equity up to a ratio of 2:1. Generally, the company must trade at arm's length prices and on arm's length terms.

The licensee must have the expertise and financial background required for the exploitation activities in question.

The provision corresponds to section 7(3) of the current Mineral Resources Act as amended by section 9, paragraph (i) of Act of 19 May 2009 on various matters in connection with the Greenland Self-Government. The latter provision gave section 7(3) of the Mineral Resources Act the following wording:

*"(3). A licence for exploitation of mineral resources may be granted only to limited companies. The company may only perform activities under licences granted under this Act and must not be taxed jointly with other companies, unless joint taxation is compulsory. As a main rule, the company must have its registered office in Greenland. The company must not*

*be more thinly capitalised than the group of which the company forms part, but the company's loan capital may always exceed the shareholders' equity up to a ratio of 2:1. Generally, the company must trade at arm's length prices and on arm's length terms. Furthermore, the licensee must have the expertise and financial background required for the exploitation activities in question."*

In bill L 129 2008-2009, bill on various matters in connection with the Greenland Self-Government the following is stated about the provision:

*"The amendment to section 7(3) enables companies that are subject to compulsory joint taxation to obtain exploitation licences. It is a precondition that the statement of revenue that is covered by the revenue definition of section 7 of the bill on Greenland Self-Government introduced at the same time should be adjusted for the effect of joint taxation so that only revenue, etc. relating to the exploitation activities is included. Furthermore the company must undertake not to be more thinly capitalised than the group of which the company forms part. This means that the company's debt/equity ratio must not be higher than the debt/equity ratio of the group as a whole, irrespective of whether the lender is an affiliated company or not and irrespective of whether the lender is a domestic or a foreign company. The company's loan capital may always exceed the shareholders' equity up to a ratio of 2:1, corresponding to the limit of the current Greenland taxation rules on thin capitalisation of foreign-owned companies. Thus, the effect is solely that domestic groups are subject to the same capitalisation requirements as foreign groups. This contributes to revenue not being transferred arbitrarily to another foreign or another Greenland-owned company, which could erode both the corporation tax proceeds and the basis for the revenue definition or only the latter. In addition to this, the rules of the tax legislation on thin capitalisation apply unchanged to the company.*

*The companies concerned must undertake generally, i.e. not only in connection with trade 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 in connection with transactions between independent parties in accordance with OECD's guidelines for principles and procedures in transfer pricing cases.*

*This contributes to the licensee's revenue not being arbitrarily transferred to companies whose revenue is not subject to the revenue definition of section 17 in the bill on Greenland Self-Government."*

In connection with the consideration of an application concerning exploitation of mineral resources, the Greenland Government must therefore include the above preconditions that are a part of the self-government agreement and the Act on Greenland Self-Government adopted subsequently.

The legal position until now has been that the granting of exploitation licences to limited companies only was just a non-mandatory requirement. Individuals and other corporate forms could also be granted exploitation licences under section 7 if this could be justified by the circumstances in relation to the licences. Furthermore, the resident population of Greenland could under section 32 of the Mineral Resources Act collect and extract certain mineral resources without a licence.

According to sections 45-47 of the bill, persons who are residents of and fully liable to pay tax in Greenland, and local authorities and enterprises, may to a limited extent perform certain mineral resource activities without a licence if they have been granted special approvals to do so.

According to the bill, persons may be granted exploitation licences only according to the rules of Part 8 of this bill on small-scale exploration and exploitation of mineral resources other than hydrocarbons.

The requirements of the bill concerning the capitalisation and trade terms of the licensee (the company) are described in detail in the explanatory notes to section 9, paragraph (i) of bill L 129 2008-2009, bill on various matters in connection with the Greenland Self-Government. As mentioned above, section 9, paragraph (i) of the Act adopted amended section 7(3) of the Mineral Resources Act.

According to subsection (3) of the proposed provision licensees must have the expertise and financial background required for the exploitation activities in question. The expertise and financial background required in a specific case will depend on the scope, complexity, risk, etc. of the activities. It is endeavoured to achieve a reasonable proportionality between the scope and nature of the activities and the requirements made.

To subsection (4)

The provision establishes that in the entire licence period, the licensee under an exploitation licence must meet the requirements stated in subsection (3) and must have the right to dispose of its assets, including not being in suspension of payments, in insolvent liquidation or in a situation comparable therewith.

To subsection (5)

The provision establishes that an exploitation licence for mineral resources is granted for the periods mentioned in Parts 6 and 7. In practice, the period is fixed in the licence. The provision establishes that an exploitation licence cannot exceed 50 years.

In the case of other use of the subsoil, the Greenland Government may according to the circumstances fix an unlimited period. Such an unlimited period may, for example, be granted when the subsoil is used for storage of carbon dioxide, etc.

To subsection (6)

The provision concerns activities that take a normal course. In the event of breach, the licence may terminate by virtue of the provisions on forfeiture. As regards temporary suspension of the exploitation activities, reference is made to section 44.

To subsection (7)

The provision establishes that the Greenland Government may lay down provisions concerning fees in connection with the application for licences, the granting of licences and other work related thereto.

According to the current standard terms of 16 November 1998 for exploration and exploitation licences for minerals, the actual sizes of the fees are as follows:

Exploration licences.

1. Fee upon application	DKK 5,000
2. Fee upon granting of licence (years 1-5)	DKK 35,275
3. Fee upon granting of licence (years 6-10)	DKK 35,275
4. Fee upon granting of licence (years 11-12, 13-14, 15-16)	DKK 35,275
5. Fee upon extension or transfer	DKK 17,635
6. Fee per year per licence (years 6-10)	DKK 35,275

Exploitation licences.

1. Fee upon granting of licence	DKK 100,000
2. Related and factual expenses in connection with the consideration by the authorities of matters pertaining to the exploitation licence.	

Licences for exploration for and exploitation of hydrocarbons stipulate the specific fees that the licensee must pay as consideration to the Greenland Self-Government or as a fee for consideration by the authorities of such licences.

*To section 17*

To subsection (1)

The provisions concern payment of consideration to the Greenland Self-Government as well as the Self-Government's participation in the individual licences. The wording of the provision "payment of consideration" is also used correspondingly in the Danish Subsoil Act and this makes it clear that it is not a question of the imposition of a tax. According to the provisions, terms may be stipulated in licences to the effect that the licensee must pay an area fee, royalty, profits fee, volume fee or usage fee. Furthermore, it is established that a company controlled by the Self-Government will be entitled on specified terms to join as a participant in a licence.

Essentially, the provisions correspond to section 8(1)-(2) of the current Mineral Resources Act.

The provisions of subsections (1) and (2) allow the stipulation of terms concerning fees and concerning public participation in the activities covered by a licence. Corresponding terms have been applied in connection with the granting of rights under the current Mineral Resources Act.

To subsection (2)

According to the provision of subsection (2), a licence may prescribe that a company controlled by the Self-Government will be entitled on specified terms to join as a participant in a licence.

Nunaoil A/S was established by Act No. 595 of 12 December 1984 on the establishment of a company to attend to hydrocarbon activities in Greenland. Nunaoil participates in the present licences under the provision of section 8(2). This will continue to be the case. The terms that may be stipulated for Nunaoil's participation in a licence may, for example, be that the other



licensees under the licence must pay Nunaoil's share of the expenses for activities under the licence.

In connection with the commencement of the Act on Greenland Self-Government it was agreed that the Greenland Self-Government will take over the Danish Government's holding of shares in Nunaoil. In future, Nunaoil will be fully controlled by the Greenland Self-Government. Act No. 595 of 12 December 1984 on the establishment of a company to attend to hydrocarbon activities in Greenland as later amended was repealed on 21 June 2009 by the provision in section 26 of the Act on Greenland Self-Government.

To subsection (3)

The provision concerns the determination of a licensee's payments to the authorities.

The provision corresponds completely to section 8(3) of the current Mineral Resources Act as amended by section 9, paragraph (ii) of Act of 19 May 2009 on various matters in connection with the Greenland Self-Government.

In bill L 129 2008-2009, bill on various matters in connection with the Greenland Self-Government, the following is stated about section 9, paragraph (ii):

*"In connection with the determination of a licensee's payments to the authorities under subsections (1) and (2) above, the licensee may be granted exemption from taxation of the activities covered by the licence if the activities are subject to fees at least as onerous as the taxation would have been, and the fees are fully included in the revenue definition in section 7 of the Act on Greenland Self-Government."*

The self-government bill states, for example, the following in the explanatory notes to section 7:

*"According to section 7 of the bill on Greenland Self-Government, revenue is included in the revenue definition of section 7 in connection with any taxation of mineral resource activities. The possibility of granting exemption from taxation therefore presupposes that the tax is replaced by fees that are at least as onerous and which are fully included in the revenue definition in section 7 of the Act on Greenland Self-Government."*

According to the proposed provision of subsection (3), the licensee may be granted exemption from taxation of activities covered by a licence. Exemption from taxation presupposes that two conditions have been met. Firstly, fees must be imposed on the activities according to subsections (1)-(2) which are at least as onerous as the taxation would have been. Secondly, the fees imposed must be fully included in the revenue definition of section 7 of the Act on Greenland Self-Government. Both conditions must have been met in order for exemption from taxation to be granted.

*To section 18*

To subsection (1)

According to the provision, an exploration or exploitation licence under section 16 may lay down terms on the extent to which the licensee must use labour from Greenland for contracts, supplies and services. However, to the extent necessary for the activities, the licensee may

employ foreign staff if labour with similar qualifications does not exist or is not available in Greenland.

The provision corresponds to a great extent to section 9(1) of the current Mineral Resources Act. According to the provision of the first sentence of section 9(1) of the current Mineral Resources Act, the licence may stipulate requirements concerning the use of Greenland or Danish labour.

The proposed provision of section 18(1) is worded so that it includes only Greenland labour. This limitation has been introduced as part of reconsiderations regarding Greenland employment in connection with the passing of the Act on Greenland Self-Government. However, the requirement of use of Greenland labour involves only a requirement of a close connection to Greenland; see the explanatory notes to subsection (5).

Greenland has the status of an associated territory in the EU. Therefore, the EU rules do not apply to Greenland apart from Title IV of the EC Treaty and the special rules on association of overseas countries and territories of Articles 182-188 of the EC Treaty. This is provided for by the Treaty of 13 March 1984 amending, with regard to Greenland, the Treaties establishing the European Communities and the Protocol relating thereto (OJ L 29, 1.2.1985) as well as Act No. 259 of 28 May 1984 on change of the status of Greenland in relation to the European Communities, etc

Rules have not yet been adopted on the free movement of workers between the countries of the European Communities and the overseas countries and territories under Article 186 of the EC Treaty (previously Article 135). Article 45(2)(b) of Council Decision of 27 November 2001 (2001/822/EC) provides that the OCT authorities shall afford nationals, companies or enterprises of the Member States treatment that is no less favourable than that which they extend to nationals, companies or enterprises of third countries and shall not discriminate between nationals, companies or enterprises of EU Member States.

The following is stated in Article 45(3) of Council Decision of 27 November 2001 (2001/822/EC):

*"The authorities of an OCT may with a view to promoting or supporting local employment, adopt regulations to aid their inhabitants and local activities."*

If such provisions are introduced, the OCT authority concerned must notify the Commission of the provisions adopted and the Commission will then notify the member states. This means that preferential treatment of Greenland labour is not contrary to EU rules.

Greenland is a member of the World Trade Organisation (WTO) that has established a number of rules. Rules have been established, for example, to promote international trade and the provision of services. Greenland is a member of the organisation by virtue of the national community with Denmark. This means that the WTO rules apply also to Greenland.

The WTO rules include, for example, the General Agreement on Trade in Services (GATS). According to Article I(3)(b) of GATS the concept services includes any service in any sector except services supplied in the exercise of governmental authority.

In Article XVI and Article XVII, GATS contains rules on market access and national treatment. The rule on market access means that each contracting party shall accord to services and service suppliers of any other contracting party treatment no less favourable than that provided for under the terms, limitations and conditions specified in its schedule. The rule on national treatment means that each contracting party shall accord to services and service suppliers of any other contracting party treatment no less favourable than that it accords to its own services and service suppliers. Like the rule on market access, the nationality principle applies only if the contracting party has itself stated in its schedule that the principle is to apply to all or specific sectors within services.

Denmark, and thereby also Greenland, has not at present entered into specific commitments (so-called concessions) with regard to market access and national treatment according to the GATS rules. This means that preferential treatment of Greenland labour is not contrary to GATS.

The preferential treatment of Greenland labour could be contrary to the rules on market access and national treatment in GATS if Denmark, and thereby Greenland, enters into specific commitments within sectors covering the labour that licensees are committed to use according to section 18(1).

To subsection (2)

According to the provision, an exploration or exploitation licence under section 16 may lay down terms on the extent to which the licensee must use Greenland enterprises for contracts, supplies and services. Enterprises from other countries may be used, however, if Greenland enterprises are not competitive.

The provision corresponds to a considerable extent to section 9(2) of the current Mineral Resources Act. The use of Greenland enterprises is therefore compulsory for the licensee insofar as this is stipulated in the licence, unless circumstances exist as mentioned in the second sentence of section 18(2). The second sentence of section 18(2) of the bill corresponds to the second sentence of section 9(2) of the current Mineral Resources Act.

As a result of the compensation Greenland receives by virtue of the fisheries agreement with the EU, Greenland does not receive aid from the European Communities by virtue of the current OCT framework. Should Greenland at a later time by virtue of its OCT status be in a position to obtain Community financing of projects in the mineral resource sector, participation in invitations to tender and supplies as regards such projects will have to be open on equal terms to all natural and legal persons covered by the EEC Treaty.

As mentioned in the explanatory notes to subsection (1), Greenland has the status of overseas country or territory (OCT) in relation to the EU. Apart from the special rules on the association of overseas countries and territories in Articles 182-188 of the EC Treaty, the EU rules therefore do not apply to Greenland. The OCT rules do not contain any special rules on services. The rules provide, however, that the OCT authorities must not discriminate between the companies, nationals and enterprises of the member states, and that the OCT authorities must afford the companies, nationals and enterprises treatment that is no less favourable than that which they extend to nationals, companies and enterprises of third countries. Furthermore, Article 45(3) of Council Decision of 27 November 2001 (2001/822/EC) contains rules to the effect that, with a view to promoting or supporting local employment, the

authorities of an OCT may adopt regulations to aid their inhabitants and local activities. Reference is made to the more specific comments on this in the explanatory notes to subsection (1). The preferential treatment of Greenland contracts, supplies and services according to the provision is therefore not contrary to the EU rules.

At the time when this bill was drawn up, Greenland did not receive financing of projects in the mineral resource sector from the European Communities. By virtue of Council decision of 17 July 2006 (2006/526/EC) on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other ("the partnership agreement") one of the areas of cooperation is mineral resources; see Article 4(b) of the partnership agreement. The partnership agreement was implemented by Commission Regulation No. 439/2007. The partnership agreement is in force from 1 January 2007 to 31 December 2013. Should Greenland at a later time receive subsidies for projects in the mineral resource sector according to the partnership agreement, Greenland will be obliged to ensure that such projects are open on equal terms to all natural and legal persons who are nationals or residents of the member states or the associated countries and territories; see Article 183(1)(iv) of the EC Treaty.

As mentioned above in the explanatory notes to subsection (1), Greenland is a member of the World Trade Organisation (WTO) by virtue of the national community with Denmark. This means that the WTO rules apply also to Greenland.

The WTO rules contain rules that regulate trade in goods in the form of the "General Agreement on Tariffs and Trade" (GATT) and rules that regulate trade in services in the form of the "General Agreement on Trade in Services" (GATS).

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

Article III (4) of GATT establishes that products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

GATT contains rules, however, that afford a contracting party the possibility of being exempted from its commitments in GATT, including the provision of Article XVIII of GATT on governmental assistance to economic development. Paragraph (1) of this provision establishes that the contracting parties recognise that the attainment of the objectives of GATT will be facilitated by the progressive development of their economies, particularly of those contracting parties the economies of which can only support low standards of living and are in the early stages of development. The provision of paragraph (2) points out that, in order to implement programmes and policies of economic development designed to raise the general standard of living of their people, it may be necessary for those contracting parties to take protective or other measures affecting imports. According to Article XVIII (4) (a) and (b) of GATT, a contracting party the economy of which can only support low standards of living and is in the early stages of development, or a contracting party which is in the process of development, shall therefore be free to deviate temporarily from the provisions of GATT

under specified conditions and provided that the procedure in Article XVIII, Section C or D of GATT is observed.

A contracting party coming within the scope of Article XVIII (4) (a) of GATT shall, prior to taking any proposed measure, notify the other contracting parties to this effect. If, within thirty days of the notification of the measure, the other contracting parties do not request the contracting party concerned to consult with them, the contracting party shall be free to deviate from the relevant provisions of GATT. If the contracting party is requested to do so, it shall consult with the other contracting parties. If within ninety days the contracting parties have not concurred, the contracting party concerned may introduce the measure after informing the contracting parties.

A contracting party coming within the scope of XVIII (4) (b) of GATT may apply to the other contracting parties for approval of a proposed measure. The other contracting parties shall promptly consult with the contracting party concerned, and if the other contracting parties concur, the contracting party concerned shall be released from its obligations in relation to the measure concerned.

Furthermore, GATT contains a provision of general exceptions in Article XX. The objective exceptions that a contracting party may invoke are exhaustively listed in Article XX of GATT. They include, for example, measures necessary to protect human, animal or plant life or health. In addition it is demanded that the contracting party should state reasons for the measure and enforce it objectively and proportionately. It must be regarded as doubtful, however, whether the considerations that are the reason for the provision of subsection (2) fall within the general exceptions provision of GATT.

As mentioned, services are covered by GATS. According to Article I(3)(b) of GATS, the concept of services includes any service in any sector except services supplied in the exercise of governmental authority.

As appears from the explanatory notes to subsection (1) GATS contains rules on market access and national treatment. These rules apply only however, if the contracting party has itself stated in its schedule that the rules on market access and national treatment, respectively, are to apply to all or specific sectors within services. At present, Denmark, and thereby also Greenland, has not entered into specific commitments (concessions). The preferential treatment of Greenland service suppliers and services is therefore not contrary to GATS. Reference is made to the explanatory notes to section 18(1).

To subsection (3)

The provision concerns processing in Greenland of exploited mineral resources. It establishes that a licence under section 16 may lay down the extent to which exploited mineral resources must be processed in Greenland. However, minerals may be processed outside Greenland if processing in Greenland would result in significantly higher costs or greater inconvenience.

The current Mineral Resources Act does not contain a provision corresponding to that of section 18(3) of the bill. However, section 7(1) of the current Mineral Resources Act provides that a licence may be granted on specified terms. Furthermore, the fact that the current Mineral Resources Act is in the nature of a framework act generally allows special provisions,

including provisions on processing in Greenland, to be stipulated to a certain extent in licences, model licences and standard terms.

It must be decided in each specific case whether processing in Greenland would result in significantly higher costs or greater inconvenience.

As stated in the explanatory notes to subsections (1) and (2), Greenland has the status of overseas country or territory (OCT) in relation to the EU and the preferential treatment of Greenland service suppliers and services is not contrary to the EU rules. Reference is made in general to the more detailed explanatory notes to subsection (2).

As described in the explanatory notes to subsections (1) and (2), Greenland is a member of the World Trade Organisation (WTO) by virtue of the national community with Denmark. This means that the WTO rules apply also to Greenland.

As mentioned in the explanatory notes to subsections (1) and (2), the WTO rules include, for example, the General Agreement on Trade in Services (GATS) that contains rules on market access and national treatment. Denmark, and thereby also Greenland, has not at present entered into specific commitments with regard to market access and national treatment. Potential preferential treatment of Greenland service suppliers supplying services in connection with processing is therefore not contrary to GATS. Reference is made to the explanatory notes to subsections (1) and (2).

To subsection (4)

The provision establishes that licences granted under section 16 may determine the extent to which the licensee must conduct surveys and prepare and implement plans to ensure that exploration or exploitation of mineral resources as well as other use of the subsoil is socially sustainable. Furthermore, it appears that such plans and surveys must be approved by the Greenland Government.

The current Mineral Resources Act does not have a provision that corresponds to subsection (4).

The provision of subsection (4) makes allowance for, for example, social and environmental considerations and ensures that the Greenland Government must approve the surveys, etc. conducted by the licensee.

The provision should be seen in conjunction with the provision of section 1(2) stating the purpose of the bill, according to which the bill aims to ensure that mineral resource activities are performed appropriately as well as in a sound manner as regards safety, health, the environment, resource exploitation and social sustainability.

An assessment as to whether exploration and exploitation is performed in a socially sustainable manner must generally be based on an overall assessment and weighing of all relevant matters, including socioeconomic, environmental, climate, health, safety and resource matters. Generally, the overall assessment must include, for example, impacts of the exploration and exploitation activities in question as well as the other matters referred to in subsections (1) to (3), including the socio-economic effects.

The proposed provision of subsection (4) should also be seen in connection with the provisions of subsections (1), (2) and (3) as well as Part 16 of the bill on social sustainability and social impact assessment. Together, the provisions referred to should make allowance for socioeconomic considerations and contribute to securing and supporting Greenland employment and Greenland trade and industry. At the same time, the provision contributes to ensuring that Greenland acquires skills and knowledge of the performance of work related to exploration and exploitation of mineral resources in Greenland.

To subsection (5)

The provision establishes that the Greenland Government may lay down specific provisions on the matters mentioned in subsections (1)-(4), including provisions on the definition of Greenland labour and Greenland enterprises.

The current Mineral Resources Act does not have a provision like that of subsection (5).

The provision allows the Greenland Government to lay down specific provisions in executive orders, model licences or standard terms on the matters mentioned in subsections (1)-(4), including provisions on the definition of Greenland labour and Greenland enterprises.

If the Greenland Government has not laid down provisions on the definition of Greenland labour and Greenland enterprises, the practice applied so far in the mineral resource area must be used as a basis.

It appears from section 21 of the model licence for exploration for and exploitation of hydrocarbons, April 2008, that Greenland enterprises are defined as enterprises domiciled in Greenland whose commercial activity gives them genuine ties to Greenland. Article 13 of the standard terms for licences for exploration for minerals (with the exception of hydrocarbons) in Greenland has a corresponding provision.

#### *To section 19*

The provision contains rules on advance approval of exploitation plans. Before exploitation and preliminary measures are initiated, the Greenland Government must have approved a plan for the activities, including production organisation and related facilities.

The provision corresponds to section 10 of the current Mineral Resources Act.

The proposed provision means that the Greenland Government must approve a plan for exploitation activities, including production organisation and related facilities before exploitation measures or measures aimed at exploitation are initiated.

In connection with the approval of exploitation plans, the Greenland Government must ensure that the measures are carried out in a sound manner technically and as regards safety, health, environmental protection and social sustainability and with as little waste of mineral resources as possible.

The granting of approval may be rejected if the rejection is motivated by reasoned considerations, including consideration for matters relating to techniques, safety, health, the environment, resource utilisation or social sustainability; see also section 1(2).

It is essential in the regulatory process in connection with the approval of plans according to the provision that the Greenland Government can reach a sufficiently informed decision with a view to making an overall assessment of the activities. This means, for example, that an environmental impact assessment (EIA) and a social sustainability assessment (SSA) must be made.

*To section 20*

To subsection (1)

The provision allows the Greenland Government, when it approves an exploitation plan under subsection (1), also to decide on and grant a licence for the establishment of installations that can supply the mining or offshore facility with energy. Such a licence will be granted together with an exploitation licence. Before a licence can be issued for the establishment of a related energy installation, a plan must also be presented for this installation under subsection (1). A licence for a related energy installation will therefore be issued on the basis of an overall evaluation of the activities as a whole.

The provision clarifies that a licence for related energy activities can be granted only in relation to mineral resource and subsoil activities. One of the purposes of the provision is to counter the establishment of mineral resource activities to a limited extent where the actual purpose is energy production. In such cases the Greenland Government will be able to reject the establishment of related activities or refer the applicant to submitting an application for the establishment of energy production to the competent authority under the Greenland Government.

Licences for the pre-project phase and exploitation of hydropower resources for the production of energy in connection with exploitation of mineral resources are granted by the Greenland Government as part of the overall regulatory process in relation to these activities. However, the specific licence for the hydropower resource must be considered according to the legislation on exploitation of hydropower resources while the remaining regulatory process must be according to this bill. In this connection, the Greenland Government must make an overall evaluation of the conditions for the licence and safeguard the Greenland Self-Government's general interest in efficient and optimum exploitation of water and wind power resources as well as Greenland's overall economic interests.

It is anticipated that exclusive licences will often be granted, but in some cases non-exclusive licences will be granted. This may be the case, for example, when the inflow into and extent of the hydropower resource is so large that there may be a basis for granting several licences for the same resource or area.

To subsection (2)

In the licence, the Greenland Government may lay down specific terms for the use of energy installations mentioned in subsection (1), including terms to the effect that upon the termination of the licence the installation reverts to the Greenland Self-Government and that other licensees may be connected to the energy installation. A duty may be imposed to supply energy for general purposes. Other objective terms may be stipulated insofar as they are in accordance with the purpose of this bill.



To subsection (3)

The provisions concern payment of consideration to the Greenland Self-Government. The wording of the provision "pay consideration" is also used correspondingly in the Danish Subsoil Act and this makes it clear that it is not a question of the imposition of a tax.

According to the provisions, terms may be stipulated in licences to the effect that the licensee must pay an area fee, royalty, profits fee, volume fee or usage fee. The Self-Government's revenue from fees that a licensee must pay according to section 16 for the exploitation of energy resources in connection with mineral resource activities will be included in the revenue definition of section 7(2) of the Act on Greenland Self-Government.

*To section 21*

The provision allows the Greenland Government, when it approves an exploitation plan under subsection (1), also to decide on and grant a licence for the establishment of related pipeline facilities for transport of, for example, gas or oil from an offshore facility. Such a licence will be granted together with an exploitation licence. Before a licence can be issued, a plan must also be presented for this facility under subsection (1).

A licence for the establishment of pipeline facilities will therefore be issued on the basis of an overall evaluation of the activities as a whole.

To subsection (2)

In the licence, the Greenland Government may lay down specific terms for the use of pipeline facilities mentioned in subsection (1). The terms of a licence may, for example, include routing, dimensions, capacity, the right of others to use the facility and payment for such use, and there may be a term to the effect that upon the termination of the licence the facilities revert to the Greenland Self-Government. Other objective terms may be stipulated insofar as they are in accordance with the purpose of this bill. Thus, terms may be stipulated concerning prevention and limitation of pollution and other detrimental impact on nature, the environment or human beings from pipelines. Another term could be the possibility of maintaining and repairing existing cables and pipelines and the obligation to do so.

To subsection (3)

The provisions concern payment of consideration to the Greenland Self-Government. The wording of the provision "pay consideration" is also used correspondingly in the Danish Subsoil Act and this makes it clear that it is not a question of the imposition of a tax.

According to the provisions, terms may be stipulated in licences to the effect that the licensee must pay a volume fee, quantity fee or profits fee. The Self-Government's revenue from fees that a licensee must pay according to section 16 for the use of a pipeline facility in connection with mineral resource activities will be included in the revenue definition of section 7(2) of the Act on Greenland Self-Government.

*To section 22*

To subsection (1)

The provision contains rules on the duration of the licences as regards exploration for and exploitation of hydrocarbons. It appears from the provision that licences for exploration and exploitation are granted for a period of up to ten years or, if special circumstances exist, for a

period of up to 16 years. Furthermore, a licence may be extended with a view to exploration by up to three years at a time.

Essentially, the provision corresponds to section 11(1) of the current Mineral Resources Act.

The provisions means that hydrocarbon licences are granted as combined exploration and exploitation licences, after the fashion of what applies under the Danish Subsoil Act and after the fashion of the previous practice under the current Mineral Resources Act. The reason for this is that enterprises can hardly be expected to invest the considerable amounts required to drill deep exploration wells and to carry out similar very capital-intensive measures unless they are guaranteed a right in advance to exploitation of any discoveries and know the nature and the specific content of the financial conditions that will apply to such extraction.

Furthermore, the periods of section 22(1) of the bill concern only the exploration phase. The exploitation period is, as hitherto, 30 years and may be extended but cannot exceed 50 years; see section 22(2) and (3) and section 16(5) of the bill.

Special circumstances that call for the granting of a longer licence period of up to 16 years may, for example, exist for areas where climatic and other natural conditions result in seasonal and particularly difficult working conditions that may be expected to prolong, delay or, at times, totally prevent exploration.

The exploration period will be fixed within the framework mentioned (up to ten years or up to 16 years) based on a specific evaluation. Elements of the evaluation will be the geographic location of the area as well as climatic and other natural conditions. In addition, other conditions such as the size of the area, the nature and scope of the exploration commitments as well as the stipulations of the licence on gradual reduction of the exploration area.

As has been the case until now, a licence may be extended with a view to exploration by up to three years at a time. The aim of the provision is that on the basis of a specific evaluation an extension may be granted when this is well founded, for example to ensure that the exploration in progress can be carried on with a view to an evaluation as to whether hydrocarbon discoveries are commercially exploitable.

To subsection (2)

The provision corresponds to section 11(2) of the current Mineral Resources Act.

The provision concerns rules for extension of the licence with a view to exploitation of hydrocarbon deposits. It appears from the provision that when the conditions under subsection (1) of the licence have been met, the licensee is entitled to an extension of the licence with a view to exploitation. The licence is extended for those parts of the area that contain commercially exploitable deposits of mineral resources. The licence is extended for a period of 30 years. The Greenland Government may stipulate as a condition for the extension that an application for approval must be submitted within a specified reasonable deadline; see section 19.

According to the provision, the licensee is entitled to and may demand extension of the licence with a view to exploitation when the terms stipulated in a licence under subsection (1)

have been met. The licences will specify the terms, etc. that must be met in order for the licence to be extended.

The licence may be extended for those parts of the licence area that contain commercially exploitable deposits which the licensee intends to exploit.

The licence will state the technical and financial information and evaluations that must be presented when the licensee declares that the deposit is commercially exploitable and is intended to be exploited with a view to extension under subsection (2).

Furthermore, a licence states how areas are delimited for those parts of the area to which the extension is to apply as the licence is extended only for the deposit itself with an additional area of a certain size which is determined by the Greenland Government and the purpose of which is to ensure appropriate delimitation of the area covered by the licence.

The licence is extended for a period of 30 years and can be extended by the Greenland Government for an additional period if special circumstances exist but cannot exceed 50 years; see section 22(2) and section 16(5) of the bill.

As a condition for the extension, the Greenland Government can decide that within a specified reasonable time limit an application must be submitted for approval of a plan for exploitation measures according to section 19 of the bill. One of the aims of this provision is to avoid that proven, commercially exploitable deposits are left unexploited.

To subsection (3)

The provision concerns the Greenland Government's possibility of extending the exploitation period further.

The provision corresponds to section 11(3) of the current Mineral Resources Act.

According to the provision, the Greenland Government has the option of extending the exploitation period laid down under section 22(2) of the bill if special circumstances exist.

Generally, licences are granted with a view to exploitation for a period of 30 years pursuant to subsection (2) and the period cannot exceed 50 years; see section 16(5) of the bill.

Until now the Greenland Government has under the current provision been able to extend a licence with a view to exploitation based on a specific evaluation.

What is intended is an amendment of the provision on a point of fact so that the Greenland Government can grant an extended exploitation period only if special circumstances exist.

Special circumstances may exist, for example, in the instances where on the basis of climatic and other natural conditions the extraction is postponed to such an extent that the deposit cannot be exploited as expected within the original period fixed in pursuance of section 22(2) of the bill.

*To section 23*

The provision contains rules that to a great extent correspond to what applies according to the EU hydrocarbons licensing directive (Directive 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 (94/22/EC)).

To subsection (1)

The provision concerns the granting of licences for exploration and exploitation of mineral resources under section 16. The provision establishes that licences are granted as provided by the Greenland Government in one of the manners mentioned in subsections (2)-(5).

Greenland has the status of an associated territory in the EU. Therefore, the EU rules, including secondary legal acts in the form of directives, do not apply in Greenland apart from Title IV of the EC Treaty and the special rules on association of overseas countries and territories of Articles 182-188 of the EC Treaty. This is provided for by the Treaty of 13 March 1984 amending, with regard to Greenland, the Treaties establishing the European Communities and the Protocol relating thereto (OJ L 29, 1.2.1985) as well as Act No. 259 of 28 May 1984 on change of the status of Greenland in relation to the European Communities, etc.

Thus both Community law and Danish rules provide that the EU hydrocarbons licensing directive does not apply in Greenland.

The hydrocarbons licensing directive or corresponding rules and principles apply in many oil producing countries, including also countries outside the EU. The hydrocarbons licensing directive applies only to the use of hydrocarbons but the principles may also appropriately be applied to the granting of licences for prospecting, exploration and exploitation of mineral resources other than hydrocarbons.

In the World Trade Organisation (WTO) the member countries have laid down rules, including rules the purpose of which is to promote international trade and the provision of services. Greenland is a member of the organisation by virtue of the national community with Denmark. This means that the WTO rules apply also to Greenland.

In WTO certain member countries have acceded to the Agreement on Government Procurement (GPA). Denmark, and thereby Greenland, has not acceded to the agreement and therefore the agreement does not apply in Greenland.

To subsection (2)

The provision means that normally a public invitation to apply for licences, a so-called licensing round, must be arranged when licences for exploration for and extraction of hydrocarbons are planned to be issued. The reason for this is the wish to involve a good many companies in intensified exploration and extraction activities with a view to exposing the access to hydrocarbons to increased competition.

To subsection (3)

The provision concerns the granting of licences following a special licensing round. The provision establishes that licences may be granted following a special licensing round if an application has been received by the Greenland Government without a public invitation to apply for licences and the Greenland Government finds that the application should be

considered. The Greenland Government publishes a notice on the application received and an invitation for other applications. The deadline for submitting other applications is 90 days after the publication of the notice.

Essentially, the provision corresponds to the first and second sentence of section 12(1)(b) of the Danish Subsoil Act.

This 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, experience from previous licensing rounds, etc. Under the current system it has also been possible to choose this procedure, which has been used in a few cases. In this instance, the original application will be regarded as having been submitted in connection with the special licensing round.

To subsection (4)

The provision establishes that the Greenland Government may lay down provisions in an executive order to the effect that for a specified period a specified area must be open for the successive granting of licences under section 16 following applications for licences.

The Greenland Government publishes the notice on its website and in any other appropriate manner. The notice must contain information on the mineral resources in respect of which licences for exploration and exploitation may be granted, the areas covered and how interested parties can obtain details on the terms.

It is assumed that the provision will primarily be applied in areas that have previously been subject to a procedure of invitations to apply for licences or have been abandoned by a licensee as well as areas where the exploration risk must be regarded as being relatively high.

To subsection (5)

The provision concerns the granting of licences according to a neighbouring block procedure. The provision establishes that the Greenland Government may grant licences to a licensee under a licence for a neighbouring area, without applying the procedures referred to in subsection (2), (3) or (5) if warranted by geological and exploitation-related considerations. All licensees in neighbouring areas must receive notice of the neighbouring block procedure from the Greenland Government and all such licensees must be given an opportunity to apply for the licence.

The provision is aimed in particular at the instances where a deposit or a potential deposit extends from an area covered by a licence into an area not covered by a licence.

It will often be most appropriate, and on a commercial basis often the only possibility, to explore for or exploit such transboundary parts of potential or actual deposits together with the other parts of the potential or actual deposit. Therefore the provision allows the allocation, without prior public invitation to apply for licences, of such a neighbouring area to the licensee who already has a licence in respect of the remaining part of a potential or actual deposit.

To subsection (6)

The provision establishes that the Greenland Government has a free hand with regard to the granting of licences even if there has been a public invitation to apply for licences, etc.

*To section 24*

The criteria that are mentioned in subsections (2)-(5) of the provision are the criteria to which importance has been attached in the previous licensing rounds in Greenland in relation to hydrocarbons. Thus, it is a continuation of the practice that has applied in connection with previous licensing rounds in Greenland one example being the letter of invitation in connection with the open door licensing round in April 2008 (Invitation to apply for Licences for Hydrocarbon Exploration and Exploitation under the Open Door Procedure).

The criteria, therefore, constitute part of the legal and objective criteria that may form part of evaluations of several applicants for the same area. The same criteria may also appropriately be applied when granting licences for exploration for and exploitation of mineral resources other than hydrocarbons.

To subsection (1)

The provision concerns selection criteria for the granting of licences. The provision establishes that licences are granted on the basis of the criteria set out in subsections (2)-(5) of the provision.

To subsection (2)

The provision concerns the selection criteria that relate to the applicant's expert knowledge. The provision establishes that importance may be attached to the applicant's previous experience of exploration or exploitation of mineral resources. Furthermore, the provision establishes that importance may be attached to the applicant's previous experience of exploration and exploitation in similar areas.

To subsection (3)

It appears from the provision that in connection with the granting of licences importance may be attached to the applicant's financial background.

It is an important precondition for the granting of a licence that the applicant has the necessary financial background to be able to bear the costs involved in exploration and exploitation of mineral resources.

The selection criterion stated above concerning the applicant's financial background also appeared from the letters of invitation in respect of the licensing rounds concerning hydrocarbons in Greenland in 2004, 2006 and 2007.

To subsection (4)

The selection criteria mentioned above, including the inclusion of consideration for the applicant's procedures in connection with safety, health and the environment, appeared also from licensing rounds concerning hydrocarbon licences in Greenland in July 2006 (The Disko West Licensing Round 2006) and June 2007 (The Disko West Licensing Round - Phase 2).

The criterion concerning the applicant's ability to perform thorough exploration appeared from the letters of invitation for the licensing round in April 2004 (Invitation to apply for Hydrocarbon Exploration and Exploitation Licences under the West Greenland Licensing Round 2004) and the subsequent licensing rounds in 2006 and 2007.

To subsection (5)

It appears from the provision that in addition to the criteria in subsections (2)-(4) the Greenland Government may attach importance to the applicant's non-efficiency or non-performance of obligations in connection with licences in Greenland.

Thus, it may be of importance for the evaluation of an application how the applicant has previously met its obligations under licences in Greenland

To subsection (6)

The provision concerns the Greenland Government's possibility of stipulating additional criteria to be used for the final decision as to who should be granted licences if several applicants are equal. The criteria stipulated by the Greenland Government must be relevant, objective and non-discriminatory.

To subsection (7)

The provision concerns the Greenland Government's possibility of making up groups of enterprises that are granted licences jointly. The provision establishes that in the establishment of the procedure for the granting of licences the Greenland Government may make up groups of enterprises that are granted licences jointly. The make-up will in these instances be based on one or more of the criteria mentioned in subsections (2)-(6) so that the group jointly meets the demands that must be made on a licensee.

To subsection (8)

The provision concerns the Greenland Government's possibility of appointing the operator of a group of enterprises, as mentioned in subsection (8) that are granted a licence jointly. According to the provision, the appointment as operator is made in these instances on the basis of expert knowledge and possibly also other criteria mentioned in subsections (2)-(6).

An operator is the enterprise that on behalf of the licensee carries out exploration for and exploitation of hydrocarbons under a licence and the operator's specific tasks and responsibilities will be described in more detail in the licensing documents and the licence.

To subsection (9)

The provision establishes that the criteria and their mutual weight must be published together with the invitation to submit applications under section 23 (2)-(4) and the notice of the neighbouring block procedure mentioned in section 23(5).

In the laying down of provisions on the mutual weighting of the selection criteria, primary and secondary selection criteria may, for example, be applied. Such primary and secondary criteria have previously been fixed in licensing rounds for hydrocarbon licences in Greenland.

Thus, in the letter of invitation for the licensing round in April 2008 (Invitation to apply for Licences for Hydrocarbon Exploration and Exploitation under the Open Door Procedure) it appeared from point 4 that the selection criteria on expert knowledge, financial background and the applicant's willingness and ability to perform thorough exploration, etc. were to be regarded as primary selection criteria and that in the selection among several equally qualified

applicant's importance would be attached to secondary selection criteria in the form of the applicant's willingness and ability to contribute to the Greenland and Danish authorities' continued development of a strategic environmental impact assessment (EIA).

A similar provision on primary and secondary selection criteria also appeared from the letters of invitation for the licensing rounds concerning hydrocarbon licences in Greenland from July 2006 (The Disko West Licensing Round- 2006) and June 2007 (The Disko West Licensing Round - Phase 2), respectively.

*To section 25*

The provision concerns a deposit that has not yet been exploited, but which has been proven.

The provision lays down rules on the Greenland Government's right to request that a licensee should prepare an exploitation plan under section 19 of the bill for a commercially exploitable deposit. The Greenland Government must approve the exploitation plan. In connection with an approval the Greenland Government extends the licence for a period of 30 years with a view to exploitation for the part of the licence area covering the deposit.

Following an approval of an exploitation plan, the Greenland Government may also order the licensee to initiate exploitation.

The provision corresponds to a great extent to section 13(3) of the Danish Subsoil Act that is from the Subsoil Act from 1981. In the explanatory notes of the bill to this provision (Official Report of Parliamentary Proceedings 1980-81, Appendix A, columns 4487 f), the following is stated:

*"The provision of subsection (3) allows the Minister for Energy, during the term of exploration, to order a licensee to exploit an accumulation that must be regarded as commercially exploitable on the basis of the investigations performed. The provision must in particular be assumed to be of importance when the accumulation has been demonstrated at the beginning of the term of exploration. In connection with approval of the production measures, including the date of production start-up, the term of the licence is extended with a view to production for the part of the area concerned. The carrying out of these production activities will not normally result in changes to the licensee's other obligations, including work obligations during the term of exploration."*

According to the provision, the Greenland Government issues an order for the submission of an exploitation plan if a deposit must be regarded as commercially exploitable on the basis of the prospecting carried out by the licensee and any other relevant surveys and information. The Greenland Government decides whether a deposit must be regarded as commercially exploitable on the basis of an overall evaluation of all relevant surveys, information and circumstances, including also the licensee's surveys and evaluations. If a deposit must be regarded as commercially exploitable the Greenland Government will issue an order for the submission of an exploitation plan for the deposit. If it is not clearly most probable that a deposit will be commercially exploitable such an order will not be issued unless necessitated by important resource, economic or social considerations.

The provision must in particular be assumed to be of importance when the deposit has been



demonstrated at the beginning of an exploration period.

In connection with the Greenland Government's approval of the plan for exploitation measures, etc., which the licensee must submit according to the provision, the Greenland Government will extend the licence for a period of 30 years with a view to exploitation for the part of the licence area covering the deposit.

It appears from subsection (1) that after approval of an exploitation plan and extension of the licence with a view to exploitation the Greenland Government may order the licensee to initiate exploitation of the deposit.

Subsection (2) establishes that a licensee to whom an order has been issued under subsection (1) to initiate exploitation must initiate such exploitation not later than three years after the issue of the order. The licensee's obligations according to the order cease, however, if at the latest at the expiry of the one-year time limit the licensee has returned the parts of the licence area covered by the order or has returned the licence. In the case of return, the licensee must meet all relevant obligations concerning the returned licence area or the returned licence.

*To section 26*

To subsection (1)

The provision allows the Greenland Government when approving the exploitation plan to stipulate terms on the quantity to be exploited on the basis of the information in the exploitation plan and terms on the time of the start of exploitation of the deposit.

The provision allows the Greenland Government to ensure that a hydrocarbon deposit is exploited fully in an appropriate manner and thereby contributes to Greenland's social and economic development.

In connection with approval of exploitation measures under section 19 of the bill, the licensee will present plans for the arrangement of such exploitation.

The Greenland Government's authority under the provision is exercised by the Greenland Government granting the licensee an exploitation licence stating the quantity that may be exploited in a coming period.

The basis for fixing the quantity of the deposit that may be exploited must be the exploitation that appears from the exploitation plan approved pursuant to section 19 of the bill unless new information of importance for the exploitation of the deposit has appeared since the approval.

In connection with the approval of the exploitation plan and in connection with the current exploitation licences, quantity restrictions may be laid down for the production from a field or a part of a field, for example to ensure maximum exploitation of the deposit in consideration of market prices and a wish for optimisation of the utilisation of pipelines and production facilities.

To subsection (2)

The provision concerns the Greenland Government's right to change approved exploitation plans and adjust the exploitation of hydrocarbon deposits where the consideration for sound and appropriate exploitation so requires or decisive social considerations so necessitate.

By virtue of the provision the Greenland Government is authorised to change already approved exploitation plans under this bill and adjust the exploitation of hydrocarbon deposits where the consideration for sound and appropriate exploitation so requires or where decisive social considerations so necessitate.

The provision is intended to be applied in situations where the knowledge gained of the hydrocarbon reservoir prompts an immediate change of the exploitation profile contained in the exploitation plan. This may for example be the case where a change is needed to avoid permanent damage to the reservoir that could arise if intervention awaited the expiry of the exploitation period in question.

The social considerations that the provision must make allowance for are the consideration for exploitation of hydrocarbon resources taking place in such a manner as to ensure that they benefit the social and economic development of Greenland as much as possible.

A change in the exploitation plan may, for example, be relevant when the permitted exploitation tempo is to be changed to stretch the exploitation over a larger number of years to prevent an undesired social and economic development. Furthermore, it may become relevant in emergencies to increase the stipulated maximum exploitation or stipulate the minimum exploitation.

The provision may apply to one or more hydrocarbon deposits or for example only to the exploitation of gas from one or more deposits.

#### *To section 27*

##### *To subsection (1)*

The provision contains rules on the handling of situations where hydrocarbon deposits extend through the areas of several licensees. It appears from the provision that where a hydrocarbon deposit extends through the areas of several licensees, the licensees must coordinate their exploration and exploitation, if any. The Greenland Government must approve agreements to this effect. The Greenland Government may order such coordination and stipulate terms for it if the parties cannot agree on coordination within a reasonable time.

The provision corresponds to section 13(1) of the current Mineral Resources Act.

The purpose of the provision is to ensure that a hydrocarbon deposit that is divided between or extends through several areas, to which exclusive licences have been granted to several licensees, is exploited as a whole.

Generally, the licensees must themselves seek to reach agreement on the contents of an agreement concerning coordinated exploration and exploitation. The Greenland Government must approve such agreements, however; see the second sentence. Such an agreement on coordination will often be quite extensive. The agreement must, for example, contain provisions on distribution (and delimitation) of the hydrocarbon deposit among the licensees.

Furthermore, it must be stipulated in the agreement when and how deposits are to be explored and exploited and when they are to be brought into production.

An agreement on coordination must be approved by the Greenland Government according to the provision of the second sentence. This approval system makes it possible to ensure that the agreement does not include elements that are unreasonably contrary to the interests of society. In the normal cases, the licensees' financial interests in appropriate exploitation will prompt coordination.

Where the licensees cannot themselves within a reasonable time reach agreement on coordination, the Greenland Government can decide on the coordination and stipulate the terms for such coordination through an executive order. The expression "within a reasonable time" means that agreement must be reached in time to be able to make allowance for the coordination in the establishment of exploration and processing facilities (exploitation facilities).

To subsection (2)

The provision contains rules on the instances where hydrocarbon deposits extend into the sovereignty of another nation. In such instances, the Greenland Government may order the licensees of the Greenland part of the deposit to participate in coordination of exploration and exploitation if an agreement is concluded on coordination with the nation concerned.

The provision corresponds to section 13(2) of the current Mineral Resources Act.

According to the provision, the Greenland Government may order coordination of hydrocarbon deposits extending into the sovereignty of another nation. Also in these instances, coordinated exploration and production may be a precondition for appropriate exploitation of the deposit.

With the Act on the conclusion of agreements under international law from 2005, the Home Rule Government could now, on behalf of the realm, negotiate and conclude agreements under international law that entirely concern fields of responsibility taken over. This scheme does not include agreements under international law that concern defence and security policy, or which are negotiated within an international organisation of which the Kingdom of Denmark is a member. The rules of the Act on the conclusion of agreements under international law have been incorporated in the Self-Government Act without any material amendments.

Coordination across sovereignties has as a prerequisite that an agreement to this effect has been concluded between the nations involved. Such agreements are normally concluded separately for each deposit following negotiations between the nations in which also the licensees affected are involved.

It must be decided in each specific case whether the above rules of the Self-Government Act apply in connection with the conclusion of agreements concerning coordination.

Where an agreement on coordination has been concluded, the Greenland Government may, under the provision, order a licensee of the Greenland part of the deposit to participate in coordination, and the Greenland Government can stipulate the terms for such coordination.

*To section 28*

The provision corresponds to section 14 of the current Mineral Resources Act.

According to the provision, the Greenland Government may after negotiation with the licensees issue an order to the licensees to coordinate the exploitation of hydrocarbon deposits. The provision applies only where resource, economic or social considerations dictate exploitation of two or more hydrocarbon deposits together.

The intention is that it should to the widest extent possible be left to the parties themselves to stipulate the terms for coordination.

The exploitation of two or more deposits may, for example, be coordinated with regard to joint processing and transport capacity. Furthermore, small deposits can be envisaged to be exploited profitably if they are coordinated and have joint processing facilities.

Furthermore, the Greenland Government may under the provision order a licensee, against payment, to make processing and transport facilities available for such coordination. Where the licensees cannot reach agreement on payment, the Greenland Government determines the amount of such payment.

Thus the provision allows hydrocarbons from one deposit to be processed at processing facilities related to another deposit that have sufficient unutilised capacity, also where the processing facilities belong to another licensee. This has as a prerequisite that the owner's planned use is not prevented or unreasonably hindered by such processing, and that processing is against payment.

*To section 29*

*To subsection (1)*

The provision corresponds to section 15(1) of the current Mineral Resources Act.

According to the provision, exploration licenses for mineral resources other than hydrocarbons can be granted for a period of up to ten years or, if special circumstances exist, for a period of up to 16 years. Such a licence may be extended with a view to exploration by up to three years at a time.

The same considerations as those that apply to hydrocarbons under section 22(1) of the bill and the explanatory notes to that section generally also apply to minerals – as regards needs for longer exploration periods and possibly extensions – although to a lesser extent. Where such needs exist, longer exploration periods than is the general practice will be fixed, and any extensions will be granted on the basis of a specific evaluation.

The granting of licences for exploration for (subsection (1)) and exploitation of (subsection (2)) hard minerals is assumed to be based on the use of standard terms in the form of model licences that contain detailed provisions within the framework set out in this bill.

A licence under subsection (1) will, for example, state the geological, technical and financial data that must be presented when the licensee declares that a deposit is commercially exploitable and is intended to be exploited to obtain an exploitation licence under subsection (2). An exploitation licence will be limited to those parts of the area that contain commercially exploitable deposits which the licensee intends to exploit with an additional area of a certain size which is determined by the Greenland Government. The purpose of this is to ensure appropriate delimitation of the area covered by the licence.

To subsection (2)

The provision corresponds to section 15(2) of the current Mineral Resources Act.

The purpose of the provision is to avoid that proven, commercially exploitable deposits are left unexploited and to attract exploration activities. Enterprises can hardly be expected to invest in exploration activities if they are not guaranteed a certain profit from such activities in the form of a conditional right to exploit a resource they have discovered.

According to this provision, an exploration licence under section 16 of this bill may be extended with a view to exploitation. A licensee is entitled to be granted an exploitation licence when the licensee has established the existence of a commercially exploitable deposit of mineral resources, and the conditions of subsection (1) have been met. The licence is granted for the parts of the area where commercially exploitable mineral resources have been proven, and for a period of 30 years. The Greenland Government may demand submission of an application for approval of an exploitation plan under section 25.

As has been the case until now, section 29(2) of the bill provides for a right for licensees with an exploration licence to be granted an exploitation licence on standardised terms in respect of proven deposits.

To subsection (3)

The provision corresponds to section 15(3) of the current Mineral Resources Act.

The provision establishes that the Greenland Government can extend the exploitation licence. Such an extension will in particular be relevant when a deposit continues to be commercially exploitable after the expiry of the licence period.

#### *To section 30*

The provision corresponds to section 16 of the current Mineral Resources Act.

The provision concerns the financial terms that may be laid down in a licence for exploration of mineral resources other than hydrocarbons.

The provision involves a guarantee to the licensee as regards the financial terms, which means that the public share of the profits from the activities consists solely in taxation pursuant to current legislation or in the form of known terms.

It appears from the provision that terms pursuant to section 17(1)-(2) of the bill concerning the fees mentioned, as well as terms concerning the right of a company controlled by the

Greenland Self-Government to participate in the activities under the licence, will apply to the exploitation of minerals only if this is stated already in the exploration licence.

If financial terms have not been stipulated in the exploration licence, a prerequisite for the introduction of a royalty scheme is the application of the provision of the Greenland tax legislation to the effect that a royalty scheme may be introduced if this scheme is at least as onerous as the taxation would have been, and the fees are fully included in the revenue definition of section 7 of the Act on the Greenland Self-Government.

*To section 31*

To subsection (1)

The provision allows the fixing of specific rules on minerals. For example, specific provisions on exploration, exploitation, processing, storage, depositing, transport, trading, export, import and certification of minerals may be laid down.

The provision is new as compared to the current Mineral Resources Act.

While section 18(3) of the bill establishes that licences may stipulate that minerals must be processed in Greenland, this provision makes it possible to specify quality requirements, etc. for such processing.

Processing in Greenland will contribute to and support the establishment and use of Greenland service suppliers who can offer processing services in the mineral resource sector. It will also contribute to Greenland acquiring and retaining skills and knowledge in relation to exploration for and exploitation of mineral resources. Furthermore, it will mean that profits from processing of minerals will be taxed in Greenland. Thus, the Greenland Government can lay down provisions that make allowance for and ensure observance of the above considerations and objects.

Furthermore, provisions may be laid down on storage and depositing of minerals.

According to the provision, the Greenland Government may also lay down provisions on transport, trading, import and export of minerals.

Rules may be laid down to the effect that the Greenland Government must approve import of minerals for the purpose of registering such minerals and establishing knowledge of minerals imported.

Furthermore, the Greenland Government may lay down rules on certification of minerals. The provision may be used, for example, to establish certification of origin for precious stones. Such certification may be combined with the Kimberley Process Certification Scheme (KPCS) that applies solely to rough diamonds. To be able to establish targeted marketing of future cut diamonds from Greenland, a certification system may be established for cut diamonds.

Certification of origin can be used for all minerals where it is assumed that it will add value to the final product.

To subsection (2)

The provision is new as compared to the current Mineral Resources Act.

The provision concerns the right of the Greenland Government to lay down provisions to the effect that a licence or an approval from the Greenland Government is required for processing of and trading in specific minerals. Export of minerals will under any circumstances require an export licence.

The provision may be applied to ensure that enterprises concerned with processing of and trading in minerals possess the prerequisite qualifications and to ensure that society gets the greatest possible value from the enterprises concerned.

*To section 32*

To subsection (1)

It appears from the provision that the rules of the bill on exploration for and exploitation of mineral resources other than hydrocarbons (minerals) apply also to small-scale exploration for and exploitation of minerals (small-scale mineral resource activities) unless otherwise provided in Part 8.

According to the current Mineral Resources Act, prospecting, exploration and exploitation of mineral resources in Greenland may generally be carried out exclusively under licences granted in accordance with the provisions of the Act; see section 2 of the Mineral Resources Act.

Applicants for and licensees under exploration and exploitation licensee are often international mining companies with capital and expertise to carry out exploration and exploitation activities in Greenland. That type of licence is designed for mineral resource activities of a considerable scope and imposes on the licensee the extensive obligations that are necessary and customary in connection with such activities.

Within the framework of the current Mineral Resources Act, the Greenland Government may grant personal licences for so-called "small-scale mineral resource activities". Requirements and terms in that type of licence are designed for small, locally based mineral resource activities carried out by local residents who do not have the same capital and expertise as do international mining companies but who wish, nevertheless, to engage in mineral resource activities on commercial terms, and who are to a certain extent subject to limitations, although these limitations are less restrictive than the provisions of section 32 of the current Mineral Resources Act.

The specific provisions that have regulated small-scale mineral resource activities until now are available in the Greenland Government's standard terms from March 2009 and in related guidelines.

To subsection (2)

The provision establishes that irrespective of section 16(3), a licence for small-scale exploration and exploitation may be granted to natural persons permanently residing and fully liable to pay tax in Greenland. Essentially, the provision corresponds to section 7(4) of the current Mineral Resources Act as amended by the Act of 19 May 2009 on various matters in

connection with the Greenland Self-Government.

In order to avoid evasion and abuse of this right, a requirement of registration with the National Registration Office as a resident in Greenland and full liability to pay tax in Greenland during the five preceding years has been laid down in the same way as in legislation on hunting and fishing.

Thereby, the provision establishes that exploitation licences for small-scale mineral resource activities can be granted to natural persons, notwithstanding the requirement of section 16(3) of the bill to the effect that licences can be granted solely to limited companies.

To subsection (3)

The provision allows the Greenland Government to depart from the requirement of five years' preceding residence and full liability to pay tax in Greenland on the basis of an evaluation of an applicant's overall permanent connection with Greenland. The right to depart from the requirement of permanent residence or full liability to pay tax in Greenland for the five preceding years is intended to be exercised in particular in relation to applicants who have been away from Greenland to complete an education course or on a trainee stay, etc.

*To section 33*

To subsection (1)

The provision establishes that on specific terms the Greenland Government may grant exclusive or non-exclusive licences for small-scale exploration for or exploitation of minerals. The provision is new as compared to the current Mineral Resources Act that does not allow the granting of non-exclusive licences. The Greenland Government may in licences for small-scale exploration for and exploitation of minerals lay down the specific terms and requirements that are adapted to locally based mineral resource activities kept at a limited level.

To subsection (2)

The provision is new as compared to the current Mineral Resources Act. According to the current system under the Mineral Resources Act, separate licences are granted for exploration and for exploitation. First, an exploration licence is granted, and an exploitation licence may then be granted subsequently, when the licensee under a small-scale exploration licence has proven a deposit and has met the terms of the exploration licence.

With the provision of subsection (2), easier access to obtaining an exploitation licence is introduced, as the Greenland Government can grant a combined licence for exploration and subsequent exploitation or a combined licence for simultaneous exploration and exploitation.

The provision establishes that a licensee under a combined exploration and exploitation licence is permitted to perform both exploration and exploitation during the entire licence period. The licensee under such a licence is permitted to exploit deposits even though the licensee has not proven or delimited commercially exploitable deposits to the Greenland Government. The application procedure for and administration of this particular type of licence will thereby be considerably simplified.

To subsection (3)



The licensee must be legally competent and not be under guardianship. This means that demands are made on the personal capacity of the licensee in that the person must be capable of managing his personal affairs and finances and capable of committing himself under the licence, etc.

The licensee must also have the right to dispose of his assets, including not being in suspension of payment, in bankruptcy or in a situation comparable therewith. The licensee must have a certain financial capacity and the prerequisite expert knowledge. General proportionality principles of administrative law dictate that demands made on the licensee's finances and expert knowledge should be proportional to the enterprise typically being small with limited activities performed solely with the use of simple handheld tools.

To subsection (4)

It appears from the provision that a small-scale licence may be granted to one person or to several persons jointly, but not to more than five persons. The provision is new as compared to the current Mineral Resources Act, but maintains the practice followed until now for the number of licensees who may jointly be granted a small-scale licence. All licensees must meet the conditions of section 33 (3) of the bill as a condition for such a licence being granted to the licensees jointly.

To subsection (5)

The provision establishes that in any one calendar year, a person may be a licensee under a maximum of five small-scale licences, which may cover exploration; exploitation and combined exploration/exploitation.

To subsection (6)

The provision provides that the Greenland Government may lay down specific provisions on small-scale mineral resource activities. The Greenland Government may lay down provisions on the granting of licences and on terms for performance of activities, including provisions on annual reporting on small-scale mineral resource activities. Such provisions may, for example be stipulated in standard terms. Pursuant to the current Mineral Resources Act, the Greenland Government in March 2009 prepared standard terms for small-scale exploration and small-scale exploitation of minerals, respectively. Furthermore, the provision authorises the Greenland Government to lay down provisions on fees for consideration by the authorities of matters relating to small-scale licences.

According to the provision, a fee may be fixed for the granting of small-scale licences, submission of applications for licences and payment of expenses relating to the regulatory process concerning such licences.

#### *To section 34*

To subsection (1)

According to the provision, the Greenland Government determines the licence area in the licence. A non-exclusive licence for small-scale exploration and exploitation is intended for the very simple enterprise with the use of simple, handheld tools and equipment. This type of activity will typically be carried on as a supplement to traditional, locally based economic

activity in the form of hunting and fishing. Therefore, it has been deemed appropriate to fix the licence area specifically in the licence, in consideration of custom and the local view of how to delimit the area where business activities have traditionally been carried on.

To subsection (2)

The provision is new as compared to the current Mineral Resources Act.

An exclusive licence for small-scale exploration and exploitation will be aimed at the relatively more mature and technically developed enterprise with more targeted planning of exploitation of a specific, delimited, commercially exploitable deposit on the basis of knowledge of or an indicated presumption of the existence of such a deposit. That means that the activities are not characterised by the same degree of chance in the search for a potential discovery of commercially exploitable minerals as is the case for the activities typically performed under a non-exclusive small-scale licence for exploration and exploitation.

To subsection (3)

The provision points out that the licence area must not include areas covered by exploration or exploitation licences granted to others under this Act. Thus, the licences granted by the Greenland Government under this Act are in the nature of exclusive licences for the activities concerned within the licence area covered by the licence.

To subsection (4)

The provision establishes that the Greenland Government can lay down a provision on the number of licences for small-scale mineral resource activities granted and on limitations of this type of licence in specific areas. The provision allows the Greenland Government to adjust small-scale activities in consideration of appropriate development of the mineral resource sector in Greenland in a socially sustainable and sound manner as far as mineral resources are concerned.

To subsection (5)

The provision establishes that the Greenland Government can grant licences for small-scale exploration for or exploitation of minerals for a period of up to three years.

To subsection (6)

Exclusive licences can be extended by up to ten years at a time up to a total maximum period of 30 years. The right to extend a licence has as a prerequisite that exploitation of deposits has been initiated and proceeds according to the exploitation plan and generally that the terms and conditions set out in the licence have been met. The limitation of three years for the first licence period and the prerequisite of continued exploitation activities as a condition for an extension are to ensure that others are not denied the possibility of carrying out mineral resource activities in an area not actively exploited by a licensee under a small-scale licence.

#### *To section 35*

To subsection (1)

The provision of subsection (1) establishes that a small-scale licence is personal and the provision lays down rules as regards the persons who can exercise the licence. The provision codifies the practice until now.

Thus it appears from the provision that generally a small-scale licence covers only the licensee's exploitation of minerals in the licence area performed by the licensee and the licensee's household. This means that the licensee must perform the activities according to the licence.

To subsection (2)

Under subsection (2), the licensee is allowed to have the activities under the licence performed by employees or others if the licence provides for this and on the condition that not more than nine active persons are employed in the licence area at any one time.

The provision is to ensure that performance of the activities is in the nature of "small-scale" and makes allowance for the purpose of the right to perform small-scale activities aimed at small, locally based extraction enterprises that do not have the same capital and expertise at their disposal as do international mining companies.

#### *To section 36*

*To subsection (1)*

According to the bill, small-scale licences can generally be granted for simultaneous exploration and exploitation (combined exploration and exploitation licences). No special demands are made for documentation of the existence of a specific, delimited and commercially exploitable deposit in order to proceed to exploitation.

The Greenland Government has insight into the small-scale activities by still being authorised to lay down requirements, as hitherto, concerning annual reporting on the exploration and exploitation activities as well as final reporting upon the licensee's termination of the activities mentioned.

When determining the contents of these requirements and evaluating whether the requirements have been met, the Greenland Government takes into account the licensee's planned mineral resource activities under the licence, including the type and scope of the activities and information provided on these matters in the licensee's application. Furthermore, according to the bill, importance must also be attached to the licensee's exploitation plan. The fact that only limited activities can be performed under a small-scale licence means correspondingly that the information and reporting requirements are less stringent.

*To subsection (2)*

The provision concerns the Greenland Government's right to stipulate terms as regards activities that may be performed without a special licence; that may be performed only according to a special licence; and that are not permitted, respectively.

The provision is new as compared to the current Mineral Resources Act, but puts the practice already applicable into statutory form. According to current standard terms, the licensee is allowed to perform mineral resource activities with the use of handheld tools even though the Greenland Government has not granted a special licence to the licensee to carry on such activities, whereas a special licence is required from the Greenland Government if the licensee wishes to perform the mineral resource activities with the use of tools other than

handheld tools. Likewise, the licensee is not permitted to employ chemical methods to exploit or separate minerals.

To subsection (3)

The provision clarifies that, as hitherto, exploitation under a non-exclusive small-scale licence is permitted only with the use of handheld tools. Thus, such exploitation may be carried out only by the collection of loose minerals or by the extraction of minerals by means of small handheld tools such as hammers, chisels, crowbars and pickaxes. The limitations imposed by the provision on these mineral resource activities correspond to the nature of the activities and are intended to ensure that small-scale mineral resource activities are performed in a sound manner as regards safety, health and the environment.

*To section 37*

To subsection (1)

The provision establishes that the rules of section 18(4) on surveys on and plans for social sustainability do not apply to small-scale licences. Owing to the smaller scope of small-scale activities, such surveys and plans are not appropriate or necessary.

To subsection (2)

According to the provision of section 37(2), small-scale mineral resource activities are generally exempted from the requirement of preparation of an EIA and a related report. It is assumed that normally it will not be necessary to have these reports and assessments performed owing to the smaller scope of small-scale activities. It must be presumed that the environmental impact of these activities will be limited, and allowance can be made for the consideration for the environment in connection with approval of exploitation plans and closure plans and in connection with approval of the exploitation activities that are permitted only according to a special approval.

*To section 38*

To subsection (1)

The provision concerns the licensee's preparation of an exploitation plan and a closure plan which must be approved by the Greenland Government. It appears from the provision that a licensee must prepare a plan for exploitation and the activities and measures related thereto (an exploitation plan). Furthermore, the licensee must prepare a plan for activities and measures in connection with termination of exploitation and closure of any facilities, etc. (a closure plan).

Both plans must be approved by the Greenland Government before the licensee starts exploitation or activities, measures, etc. related thereto. The rules of sections 19, 42, and 43 of the bill apply by analogy with the adjustments that follow from the nature and limited scope of small-scale activities.

To subsection (2)

The provision concerns exemption from the requirement of preparation of an exploitation plan and a closure plan in the case of limited small-scale activities in relation to less valuable minerals.

This provision is new as compared to the current Mineral Resources Act and contains a clarification of and exemption from the rules on preparation of the above plans.

It appears from the provision that an exploitation plan and a closure plan are not to be prepared if a licensee wants only to exploit less valuable minerals and will use only small, handheld tools such as hammers, chisels, crowbars and pickaxes. To obtain exemption from the obligation to prepare the plans mentioned, the licensee must submit a declaration to the Greenland Government concerning the nature and scope of the small-scale activities and apply for an exemption. The declaration must be approved by the Greenland Government before the licensee starts exploitation or activities, measures, etc. related thereto.

*To section 39*

The provision concerns the granting of licences for subsoil storage or purposes relating to prospecting, exploration and exploitation of mineral resources (subsoil licences). The provision clarifies that a subsoil licence may be granted as part of or in relation to a licence for exploration for or exploitation of mineral resources.

In the light of the constantly increasing focus on global warming as a result of the emission of carbon dioxide, there may be an interest in storing carbon dioxide in the Greenland subsoil. Furthermore, it may become relevant to demand injection of carbon dioxide in connection with the exploitation of hydrocarbons.

It is proposed that under the provision a licence for use of the subsoil will generally be valid for up to 50 years. Carbon dioxide will be stored in the subsoil so as to avoid emission of carbon dioxide into the atmosphere. In such cases it may be demanded that the carbon dioxide must remain in the subsoil forever. Generally, the term of the licence will depend on a specific evaluation. Therefore, the Greenland Government has the option of granting licences indefinitely in such special cases where this is necessitated by the other use of the subsoil in question. In these cases, the licence must contain conditions aimed at use of the subsoil for permanent storage purposes, and this may mean that the conditions put the licensee under an obligation to take the necessary measures with a view to ensuring that carbon dioxide can be stored in the subsoil indefinitely.

In the long-term planning of the use of the geological formations and structures in the Greenland subsoil, it must be ensured that different, potentially incompatible uses are weighed against each other. As it is not possible to foresee which forms of use will become relevant, no general conditions for such use can be listed. Therefore, it has been envisaged that the conditions will be laid down specifically in connection with the issue of licences.

In the light of the fact that at present the knowledge and experience of storage of carbon dioxide in the subsoil is extremely limited, the Greenland Government must have the option of revising the terms of a licence along the way if this appears necessary on account of new knowledge or experience.

A licence pursuant to the provision does not exempt the licensee from obtaining all other necessary licences or permits under other legislation.

*To section 40*

The provision concerns the fixing of payment of consideration to the Greenland Self-Government. It is proposed that four different types of fee should be established.

Thus an area fee may be fixed, calculated on the basis of the size of the area covered by the licence. Furthermore, a volume fee may be fixed, calculated on the basis of the volume of gases, liquids, substances or materials stored in or otherwise injected into the subsoil. Furthermore, a usage fee may be fixed, calculated on the basis of the use of the subsoil. Finally, a profits fee may be fixed, calculated on the basis of the financial gain of the activity covered by the licence. The fees are fixed in the subsoil licence.

Essentially, the provision corresponds to section 17(1) of the bill. Reference is made to the explanatory notes to that section. It should be noted that the volume fee and the usage fee are not included in section 17(1) of the bill. It is proposed that terms may be laid down concerning such fees that are specially adapted to use of the subsoil for purposes other than mineral resource activities. The Self-Government's revenue from fees that a licensee must pay according to section 40 for the use of the subsoil in connection with mineral resource activities will be included in the revenue definition of section 7(2) of the Act on Greenland Self-Government.

*To section 41*

It is proposed that the Greenland Government can lay down specific provisions on subsoil licences in an executive order.

It will depend on the individual activity whether there is a need to issue an executive order generally regulating the type of activity concerned. Generally, it is anticipated that the individual activity will be regulated exhaustively in the licence that a licensee must obtain to commence the activity, but it cannot be denied that it may appear to be more appropriate to lay down general rules regulating the activity in an executive order.

Pursuant to the provision, rules may be issued insofar as the regulation is in accordance with the purposes of the Greenland Parliament Act; see section 1(1)-(2) of the bill. The rule has been formulated in this way to ensure that all general rules on exploitation and exploitation licences, including, for example, also the rules on termination of activities under licences, apply to subsoil activities and subsoil licences, but that this is, on the other hand, subject to the necessary adjustment as a result of the special nature of subsoil activities.

*To section 42*

To subsection (1)

The provision corresponds to section 18(1) of the current Mineral Resources Act.

According to the provision of subsection (1), specific provisions are laid down in licences under this bill on the licensee's duty to remove facilities and clean up upon the termination of activities. Generally, complete clean-up will always be demanded, but in some cases where facilities, etc. can be used for other purposes after the termination of activities, it may be decided that such facilities are not to be removed.

Furthermore, the provision concerns a licensee's obligation to implement a closure plan under section 43 of the bill according to which the licensee must, upon termination of exploration and exploitation activities under the licence, remove facilities, installations and equipment, etc. established or placed at the location by the licensee. In addition, the licensee must otherwise clean up, etc. in the areas affected.

To subsection (2)

The proposed provision corresponds to a great extent to section 18(2) of the current Mineral Resources Act although the last sentence in the proposed provision is new.

The provision of subsection (2) allows the Greenland Government to lay down terms to ensure that the licensee meets its obligations under subsection (1). The provision of security may be in the form of security deposited with a bank, a bank guarantee, a parent company guarantee or other similar security. The security must be in a form that makes allowance for the specific exploration or exploitation activities and the scope and nature of the anticipated measures to be taken upon termination of the activities. The form of security will be determined after a discussion with the licensee.

The purpose of the provision is to establish a possibility of laying down terms to ensure that the licensee's obligations under subsection (1) are met, but at the same time the terms must be of a nature so that the conditions for performing the activities are not decisively impaired. The terms laid down under the provision must therefore be worked out on the basis of a balancing of consideration for the implementation of the obligations upon termination of activities and consideration for the possibility of realising the exploration and exploitation projects.

According to the provision, the Greenland Government may lay down modified terms, including terms on changed security. A modification of terms, including changed security, may be relevant, for example, in the case of changed prices of the carrying out of closure activities or changes in general economic and social conditions, etc.

To subsection (3)

The provision corresponds to section 18(3) of the current Mineral Resources Act.

According to the provision of subsection (3), the Greenland Government may implement measures according to subsection (1) for the account of the licensee if the licensee does not comply with an enforcement notice to initiate measures according to the approved closure plan.

The provision is to ensure that the approved closure plan is implemented. In practice the security provided will be used for this purpose.

#### *To section 43*

To subsection (1)

The provision corresponds to a great extent to section 19 of the current Mineral Resources Act, although new rules have been added in subsection (4).

The provision concerns the licensee's duty to prepare a closure plan.

It appears from the provision that the closure plan must contain a plan for the measures to be taken upon the termination of activities with respect to facilities, etc. and how it is ensured financially that the plan is implemented.

The plan must be approved by the Greenland Government and must be updated on a regular basis.

The provision focuses particularly on making allowance for environmental and health considerations and ensuring clean-up, etc. upon closure and termination of the exploitation activities in accordance with the considerations set out in the provision stating the purpose of the bill; see section 1.

To subsection (2)

According to subsection (2), it must be stated how a financial basis for implementation of the closure plan can be ensured; see section 42(2) on the provision of security, if any. Application of the provision of section 42(2) in connection with closure plans has tax consequences and the application of these provisions will therefore in specific cases involve Greenland and possibly Danish tax authorities.

To subsection (3)

According to the provision, the closure plan must be approved by the authorities whereby terms may be laid down on attention to environmental, safety and health considerations also during a period after closure.

To subsection (4)

According to the provision, the closure plan must be updated at regular intervals and it must also be updated in the case of major changes to the exploitation activities.

Furthermore, the Greenland Government may decide that the plan and the security provided for its implementation must be altered when changed circumstances or new information so require. Before the Greenland Government decides that the closure plan must be altered, the need for altering the closure plan must be discussed with the licensee.

The provision establishes that the Greenland Government must approve all updates and alterations of the closure plan and changes to the security provided for its implementation.

The Greenland Government may fix a deadline, including a reasonable, short deadline for the preparation of a closure plan for approval and implementation of required alterations, including changes with regard to the provision of security.

#### *To section 44*

To subsection (1)

The proposed provision largely corresponds to section 20(1) of the current Mineral Resources Act.

The provision reflects that especially as a result of varying price and marketing conditions for mineral resources, there may be periods when continued exploitation activity will be loss-making, but where, on the other hand, the prospects that these conditions will change are such that definitive termination (closure) of activities is not desired. According to subsection (1),



temporary suspension of exploitation activities must be approved by the Greenland Government with a view to safeguarding, for example, the environment, safety and maintenance during the period when the activity is temporarily suspended and ensuring implementation of the closure plan if it must later be realised that the activity will not be resumed.

The provision establishes that approvals may be granted on modified terms.

This means that the original terms for suspension of exploitation activities may be modified if warranted by the prevailing conditions, including by the stipulation of more onerous terms.

To subsection (2)

The provision corresponds to section 20(2) of the current Mineral Resources Act.

The provision establishes that when such temporary suspension has lasted six years, or if the terms for suspension are not met, the Greenland Government may order the licensee to implement the closure plan mentioned in section 43 above.

*To section 45*

*To subsection (1)*

The provision exempts only non-commercial collection of loose minerals from the requirement that mineral resource activities may be performed only pursuant to a licence granted by the Greenland Government. Non-commercial collection of minerals is characterised in that quantities and value are limited and that the minerals are not sold and do not form part of production with a view to sale, but that the minerals are used solely for private consumption, for example collection of stones as a hobby. Conversely, commercial exploitation of minerals means collection or extraction of minerals with a view to sale or commercial production.

With the Greenland Self-Government authorities taking over the field of responsibility, there is no longer any need to have special rules concerning the right of the original population to collect and extract mineral resources. It is the Greenland Self-Government authorities who have the right of use of and the right to exploit mineral resources, etc. in Greenland. The purpose of taking over the mineral resource area is that the entire population of Greenland should to the widest extent possible benefit from the activities carried out according to the regulation of the area.

The provision applies solely to non-commercial exploitation. Those who wish to exploit mineral resources commercially must apply for a licence to do so. In this way, it is ensured that exploitation is performed according to rules laid down by the Greenland Self-Government and that society as a whole benefits from the resources to the greatest extent possible.

Together with the provisions of Part 8 on small-scale exploration for and exploitation of minerals, the provision replaces the current provision of section 32 of the Mineral Resources Act which has the following wording:

*"The resident population of Greenland may, as hitherto, collect and extract mineral resources*

*without this requiring a licence under this Act.*

*(2) The right under subsection (1) to collect and extract mineral resources can, however, only be exercised with respect of [Translator's Note: i.e. subject to] exclusive licences for exploitation of mineral resources granted to others under this Act.*

*(3) Within the precincts of a municipality the local council may lay down detailed rules on the exercise of the right under subsection (1) to collect and extract mineral resources.*

Section 2 of the current Mineral Resources Act provides that prospecting, exploration and exploitation of mineral resources in Greenland may be carried out exclusively under licences granted in accordance with the provisions of the Act.

The interpretative notes to section 32 (Official Report of Parliamentary Proceedings 1990-1991, vol. 2, Appendix A, column 5993), state as follows:

*"The contents of the provision are identical with section 30 of the current Mineral Resources Act."*

It follows from the interpretative notes to the Mineral Resources Act from 1978 that the provision aims to maintain the practice that had developed on the basis of the principle of section 1(2) of the Mining Act from 1965. It meant that a special licence was not required for certain forms of collection and extraction of mineral resources.

The interpretative notes to the 1978 Mineral Resources Act stated as follows in the explanatory notes to section 30 of the bill, which is identical in contents with the provision in section 32 of the current Mineral Resources Act from 1991:

*"Section 30 of the bill aims to maintain the practice that has developed on the basis of the principle in section 1(2) of the current Act to the effect that certain forms of collection and extraction of mineral resources do not require a special licence. The proposed provision will, as hitherto, cover gemstones (semiprecious stones) and similar resources as a basis for the manufacture of handicraft articles as well as mineral resources for use locally as building materials or for heating purposes and similar purposes: As hitherto, collection will be limited to activities that are not of an industrial nature with related major investments; see the explanatory notes to section 1."*

The way in which the nature of the collection activities that may be performed according to the provision is described in the interpretative notes is that, as hitherto, collection is limited to activities that are not of an industrial nature with related major investments.

It appears from section 32(2) of the current Mineral Resources Act that the right under subsection (1) to collect and extract minerals can be exercised only subject to exclusive licences of third parties for exploitation of mineral resources if such licences have been granted pursuant to the Mineral Resources Act. When an area is covered by an exploitation licence, the right of collection and extraction of the resident population under subsection (1) can no longer be exercised within the area as regards the mineral resources under the licence. According to the interpretative notes to the provision, this applies, for example, to the right of the population to collect coal in an area where an exclusive licence is granted for exploitation of hydrocarbon deposits.

Together with the provisions of Part 8 on small-scale exploration and exploitation of mineral resources, the provision is a continuation and specification of the right of the Greenland population to collect mineral resources. Individuals collecting and extracting minerals without a licence must be permanently residing and fully liable to pay tax in Greenland.

To subsection (2)

The provision is a re-enactment of section 32(2) of the current Mineral Resources Act.

The provision establishes that collection under subsection (1) is permitted only subject to exploration licences and exploitation licences granted to others under this Act.

It appears from the provision that the right to collect mineral resources may be exercised only subject to exclusive licences of third parties for exploitation of mineral resources if such licences have been granted pursuant to the Mineral Resources Act.

When an exploitation licence is granted for an area, the right of collection of the resident population under subsection (1) can therefore no longer be exercised within the area.

To subsection (3)

The provision concerns the right of individuals to apply for small-scale licences to exploit minerals on a non-commercial basis under subsection (1).

Under the current Mineral Resources Act, an individual may correspondingly apply for a small-scale licence if activities of exploration and exploitation of mineral resources are performed to an extent and with a purpose extending beyond what is covered by section 32.

A small-scale licence may be granted only if the applicant establishes where and when the minerals have been collected and that the exploitation has been performed in accordance with subsections (1) and (2).

To subsection (4)

The provision is new and concerns the tourist industry.

The provision allows individuals who have been granted a small-scale licence under section 33 to arrange guided mineral tours for tourists and in that connection give tourists the opportunity to collect minerals. The provision establishes that this requires a general approval from the Greenland Government in connection with which the Greenland Government may stipulate general terms for the carrying on of activities relating to guided mineral tours.

The provision also establishes that the Greenland Government may issue specific rules on the activities as such.

To subsection (5)

The purpose of the provision is to solve the practical problem of tourists and visitors to Greenland who often wish to take one or more stones as souvenirs. It is proposed that such collection, which is not based on a commercial interest and does not remove any valuable assets from Greenland, should be regulated in an executive order in which the Greenland Government can lay down specific provisions in this respect, including rules on a triviality limit. It is assumed that the provision will be applied to issue an executive order that will

regulate the right to collect stones of no commercial value, including provisions on sites, weight, etc. to facilitate administration in this area.

*To section 46*

To subsection (1)

The provision of subsection (1) establishes that, after having obtained approval from the Greenland Government, local authorities may collect and extract gravel, stone and similar minerals to be used locally as road and building materials, etc. for the establishment and maintenance of common roads, open spaces, quays, houses, buildings, etc. Furthermore, the provision provides that the Greenland Government may lay down terms on all matters relating to exploitation when granting an approval.

If exploitation is approved, it can be carried out without an exploitation licence to the extent and on the terms set out in the approval. Finally, the provision provides that exploitation must be carried out in a sound manner with regard to safety, health and the environment.

The provision is new as compared to the current Mineral Resources Act.

The purpose of the provision is to make allowance for the right of local authorities to collect and extract gravel, stone and other less valuable minerals for collective purposes to be used as road and building materials, etc. The provision codifies an already established practice of collection and extraction of gravel, stone and similar materials under the auspices of local authorities for the purposes mentioned.

To subsection (2)

The provision clarifies that exploitation under subsection (1) is not permitted in areas covered by exclusive licences under sections 16 and 33.

*To section 47*

To subsection (1)

The provision of subsection (1) establishes that the Greenland Government may approve that concrete manufacturers in the district may collect and extract gravel and stone and similar materials to be used in Greenland as road and building materials.

Collection and extraction of the above minerals and similar materials with a view to export will, accordingly, require that an exploitation licence under section 16 be applied for.

The Greenland Government may in connection with an approval stipulate terms on all matters relating to exploitation. If exploitation is approved, it can be carried out without an exploitation licence to the extent and on the terms set out in the approval. Exploitation must be carried out in a sound manner with regard to safety, health and the environment, resource utilisation and social sustainability.

The purpose of the provision is to make allowance for the right of local enterprises to collect and extract gravel, stone and similar materials for local purposes as road and building materials, etc. The provision codifies an already established practice of collection and

extraction of gravel, stone and similar materials in towns and settlements for the purposes mentioned.

It is assumed that approval under the provision is to be granted on the basis of a specific evaluation in each case and that general, ongoing or indefinite approvals of activities under the provision cannot be granted.

Exploitation of the minerals mentioned must be carried out in a sound manner with regard to safety, health and the environment.

To subsection (2)

The provision clarifies that exploitation under subsection (1) is not permitted in areas covered by exclusive licences granted under sections 16 and 33 of this Act.

To subsection (3)

The provision of subsection (3) establishes that enterprises that have for at least two years prior to the commencement of this Act met the requirements of subsection (1) and have carried on the activities mentioned in that subsection will be granted approval under subsection (1).

To subsection (4)

The proposed provision is in accordance with previous practice and the division of powers in the area, according to which land for this type of activity is allotted by the local council. This is a new type of enterprise that is typically located close to a town to be able to meet the demand from the building and construction sector in towns and settlements, and therefore the local authorities have a special need to have an influence on the location of these enterprises in urban areas.

#### *To section 48*

The provision contains authorisation for the Greenland Government to lay down specific provisions on the collection and extraction of minerals under sections 45-47.

The provision may, for example, be applied to decide that specially selected areas are to be exempted from the right to collect and extract minerals. An exemption may be relevant, for example, in areas where the Greenland Self-Government has initiated geological or similar surveys.

#### *To section 49*

To subsection (1)

The provision concerns scientific surveys. According to the provision, geological, geophysical, glaciological, hydrological and other surveys of a scientific nature of importance to the activities mentioned in section 2(2)(i)-(iv), including geochemical activities, are permitted only according to licences granted by the Greenland Government under this bill.

According to section 2(3) of the bill, the Self-Government may itself perform such surveys without a licence, however.

In addition, section 2(4) contains a special and limited exception from the general licence requirement of section 2(2) and section 49(1). According to section 2(4), GEUS and NERI can without a licence conduct research corresponding to the research conducted until now, including co-financed research, of special relevance to mineral resource exploration in Greenland. This research may be conducted without a licence, however, only to the extent and as long as the research is conducted to meet the Danish Government's obligation to make such research available to the Greenland Government under section 9(4) of the Act on Greenland Self-Government. GEUS and NERI cannot conduct research or other activities under the bill without a licence if this is not done to meet the Danish Government's obligation to make research available to the Greenland Government under section 9(4) of the Act on Greenland Self-Government, or if the Danish Government no longer has such an obligation. In such instances, GEUS and NERI must apply for a licence for research activities under section 49 of the bill in the case of scientific surveys and under section 15 of the bill in the case of actual prospecting.

The general explanatory notes (section 5.3.6) to the Self-Government Act and the explanatory notes to section 9 note that the mineral resource area is characterised by extensive cooperation between Greenland and Danish authorities. In the explanatory notes, it is envisaged that immediately after assumption of responsibility for the mineral resource area, the Self-Government will have a need for continuation of the cooperation with Danish research institutions at the administrative level and at the research level. With the provision in section 9(1) of the Self-Government Act, it is thus ensured that the Greenland Government will get access to consultancy and other attendance to tasks from NERI and GEUS to the same extent as in the previous cooperation for the purpose of the Self-Government authorities' handling of the mineral resource area.

The general basis for the Self-Government's future cooperation with NERI and GEUS in the mineral resource area appears from section 9 of the Act on Greenland Self-Government which states in subsection (1): "With the assumption of the mineral resource area by the Greenland Self-Government authorities, the Danish Government shall, against payment, ensure the provision of consultancy and other attendance to tasks for the purpose of the Self-Government authorities' attendance to the mineral resource area." Reference is also made to the general explanatory notes of this bill, sections 1.2.4 and 2.2, and special explanatory notes to section 2(2) and (4).

With a view to ensuring that the Danish Government can meet its obligations under section 9 of the Act on Greenland Self-Government, the Danish Minister for Science, Technology and Innovation has been authorised in section 1 of Act No. 474 of 12 June 2009 on various matters in connection with the Greenland Self-Government, upon the Greenland Self-Government's assumption of responsibility for the mineral resource area, to order universities that have until now carried out tasks in the area to continue to do so against payment.

According to section 49(1) of the bill, the Greenland Government may on specified terms grant licences for geological, geophysical, glaciological, hydrological and other surveys of a scientific nature of importance to the activities mentioned in section 2(2)(i)-(iv), including exploration for and exploitation of mineral resources in Greenland.

A licence under section 49 of the bill for scientific surveys and projects covered by a cooperation agreement may be granted as a framework licence for one year or any other

longer period at a time. A framework licence may include all or some of the scientific surveys and projects that are planned to be conducted under a cooperation agreement in the year in question or another longer period. According to a framework licence, activities covered by the licence can be carried out without granting a special licence for each activity.

A framework licence may, for example, state the type of activity and the geographical area covered by the licence.

The aim of concluding broad framework agreements is to ensure uninterrupted research processes and avoid that unnecessary extra administrative burdens are imposed on research institutions in the form of resource-intensive administrative procedures.

Activities covered by such a framework licence cannot, however, be carried out without prior approval from the Greenland Government if approval is required under the bill, legislation in general, licences or the cooperation agreement with the research institution in question.

Essentially, the provision corresponds to section 21 of the Mineral Resources Act.

According to the current Mineral Resources Act, the Greenland Government may grant a licence for the conduct of geological surveys of a scientific nature within exclusive licence areas.

In connection with the granting of licences for surveys of a scientific nature, reporting of data from the surveys is normally demanded with a view to such data being included in the basis for later mineral resource exploration or exploitation.

The purpose of the scientific surveys conducted in connection with the Continental Shelf Project is to establish the continental shelf borders and other maritime borders of the realm. The determination of these borders is an affair of the realm. The Continental Shelf Project is thus a project with a broader aim. Therefore the project is not covered by the provisions of section 2(2) and (4) and section 49 of the bill on scientific survey of importance to activities covered by section 2(2)(i)-(iv) of the bill.

To subsection (2)

In addition to the general right to lay down terms for the licence, this provision allows the Greenland Government to lay down specific rules on terms for scientific surveys.

The provision should be seen in relation to the fact that the Greenland Self-Government has an interest in the conduct of scientific surveys in Greenland. However, this is conditional upon the Greenland Self-Government being informed of the results of such surveys. Furthermore, it has appeared in practice that there is a need for being able to demand insurance, etc. in relation to rescue operations, etc.

According to the provision, the Greenland Government will hear the Commission for Scientific Surveys in Greenland (KVUG) before laying down provisions in pursuance of subsection (2). The hearing contributes to creating a broad basis for the Greenland Government's establishment of provisions.

Terms for licences for scientific surveys that are conducted by public research institutions,

including GEUS and NERI, and which are not included under the Danish Government's obligation to make research, etc. available to the Greenland Government according to section 9(4) of the Act on Greenland Self-Government, are laid down by the Greenland Government after KVUG has been heard.

There is a long tradition of public, non-profit research in Greenland. The bill aims to support a continuation of this tradition.

*Re Part 13*

As part of the integrated regulatory process and the potential polluting nature of the mineral resource area, environmental protection, climate protection and nature conservation will be regulated generally and specifically in connection with the assessment of specific projects.

*To section 50*

The proposed provision establishes a broad scope for the rules of the bill on environmental protection. As appears from the proposed provision, the rules of the bill on environmental protection also, but not exclusively, aim at climate protection and conservation of nature. However, this is only the general basis of this bill as the provision establishes that specific provisions may apply. The provision should be read in conjunction with the provision stating the aims of the bill, including in particular section 1(2) of the bill.

According to the proposed provision, the rules of the bill on liability and responsibility for pollution and other environmental impact (environmental liability and responsibility) and compensation for environmental damage cover also climate protection and nature conservation.

In relation to climate, it should be pointed out that the concept includes both the very local micro-climate, the CO<sub>2</sub> contribution of the activity as well as the consequences of future climate changes such as rises in sea levels.

Consequently, the proposed provision may overlap with specific provisions in the other parts of this bill that are also aimed at environmental conditions. In the case of overlapping or coincidence the rule that results in the highest environmental standard, which means the highest level of environmental protection, will take precedence.

In the application of the rules of this part, importance may be attached, for example, to the OSPAR Convention (Convention for the Protection of the Marine Environment of the North-East Atlantic); the Arctic Offshore Oil and Gas Guidelines prepared by the Arctic Council; Protection of the Arctic Marine Environment Working Group; and the Guidelines for Environmental Impact Assessment (EIA) in the Arctic prepared by the Arctic Council under the Arctic Environmental Protection Strategy.

The general Greenland environmental legislation as laid down in Greenland Parliament Order No. 12 of 22 December 1988 as later amended does not apply to mineral resource activities as section 3 of the order establishes that the rules on the protection of the environment and regulation and supervision of matters of environmental importance should be based on the



mineral resources legislation and be part of the overall regulatory process in relation to these activities.

*To section 51*

To subsection (1)

The provision of subsection (1) states that the safeguarding of human conditions of life and the ecological cycles necessitates a sustainable development as regards the utilisation of land and natural resources. The provision is thus based on the growing awareness that environmental problems are not just local and well defined but may on the contrary be global, manifold and complex. This means that with this provision the stage is set for environmental policy being based on a holistic view of man's interaction with nature – all the way from exploitation of mineral resources via production and consumption to waste disposal.

As regards wording and content, the provision corresponds to the provision of section 1(1) of the order on protection of the environment as worded in connection with the amendment to the order by the Greenland Parliament Order No. 8 of 15 December 2007.

To subsection (2)

The proposed provision states the primary objects of protection of this part of the bill. The wording of the provision is to a wide extent based on internationally recognised principles which may also be found in the wording of the provision stating the aims of the Danish Marine Environment Act.

To subsection (3)

The proposed subsection (3) specifies the considerations that must be safeguarded in the administration of this bill.

Paragraph (i) states the primary aims of this part of the bill. Thus it is stated that pollution of the sea, the sea floor, the subsoil, water, air and adverse effects on the climate as well as vibration and noise nuisance must be prevented, limited and combated

In order to prevent and limit waste of resources, see paragraph (ii), and pollution and any other adverse impact on the environment and thereby create a better basis for a sustainable development, it is proposed in paragraph (iii) that the promotion of cleaner technology must be an aim in itself in the administration of this bill. Cleaner technology may be defined as changed production processes, raw materials, ancillary materials and products that reduce the consumption of resources and prevent pollution not only in the production process but also at later stages in the product cycle.

Therefore, purification measures, which have been the traditional way of dealing with pollution problems, do not come under the designation "cleaner technology". It has appeared that treatment of waste water and air has led to problems in connection with the disposal of residual products whereby one pollution problem has replaced another. The aim of paragraph (iv) to promote recycling and limit problems in relation to the disposal of waste (including also the problems inherent in the very quantity of waste) is also based on the cycle perspective and is therefore closely related to the aim of promoting cleaner technology.

*To section 52*

To subsection (1)

The provision establishes that in the application and administration of the rules of this bill importance must be attached to the best available techniques.

The best available techniques means the most efficient and advanced level of the development of activities and operating methods and the suitability in practice of these techniques to prevent, or where this is not possible, generally limit the emissions and other environmental impacts as a whole.

*Techniques* means: Both the technology applied and the way in which facilities are designed, built, maintained, operated and shut down.

*Available* means: Developed to an extent where the techniques in question may be applied in the relevant industrial sector on financially and technically feasible conditions allowance being made for costs and advantages irrespective of where such techniques are produced or already in use as long as the licensee may have the disposal of the techniques on reasonable conditions.

*Best* means: The most efficient techniques for achieving a high general protection level for the environment as a whole.

The principle of cleaner technology aimed at limiting unnecessary use of resources and waste through prevention is not contrary to purification measures. Purification solutions are – and will to a considerable extent continue to be – necessary elements of environmental protection activities. However, the principle expresses the necessity of a prioritisation based on an ecological and socioeconomic overall view.

It is of decisive importance to the individual enterprise to be able to take a comprehensive view of the actual situation of the enterprise in relation to the environmental requirements that apply and the enterprise must also have the opportunity to plan its investments with the greatest possible certainty that also future requirements are known.

Furthermore, it is necessary in the application of the principle of cleaner technology to make allowance for maintenance of the international competitiveness and development potential of enterprises when laying down requirements under this bill.

These general considerations and principles for the administration of this bill must apply both in connection with specific decisions under this bill, when laying down instructions and standards as a framework and guidelines for the Greenland Government's practice and when laying down general rules under this bill.

To subsection (2)

The provision concerns principles for evaluation of the scope and type of measures to prevent and combat pollution. The proposed provision corresponds to a great extent to section 53(3) of the bill.

The primary difference is that section 52(2) of the bill aims in particular at the Greenland Government's evaluation of the scope and nature of the measures taken under this bill.

*To section 53*

To subsection (1)

The proposed location principle means that a polluting enterprise must be located in an environment that is resistant to pollution and that sensitive areas must to the widest extent possible be shielded from pollution impacts.

To subsection (2)

The proposed provision means that a polluting enterprise must take the necessary antipollution measures and plan operations in such a manner as to limit pollution as much as possible.

The provision establishes that the principle applies both in relation to any pollution that has occurred, the use of resources and the production of waste.

To subsections (3)-(5)

The proposed provisions amplify section 52(1) of the bill and the location principle and the antipollution principle of subsections (1) and (2).

Reference is made to the explanatory notes to section 52.

*To section 54*

It is proposed that the Greenland Government should be authorised to lay down specific provisions on environmental protection, including in particular provisions on the matters mentioned in sections 51-53 of the bill.

The idea is that the Greenland Government may under powers conferred by the proposed provision supplement the rules of sections 51-53, insofar as this is appropriate to ensure the effectiveness of this bill and is in accordance with the purpose of this bill; see section 1(1)-(2).

*To section 55*

To subsection (1)

It is proposed that the rules of this bill on climate protection should help protect the climate so that society can develop on a sustainable basis respecting the climate and its importance to human conditions of life and respecting preservation of animal and plant life.

To subsection (2)

It is proposed that the rules on climate protection of this bill should aim to prevent, limit and combat pollution and other impact on the climate from activities that may directly or indirectly endanger human health, damage animal or plant life or natural or cultural values on or in the soil or in the sea or in the subsoil, obstruct the rightful utilisation of the soil, the sea, the subsoil or natural resources, impair human conditions of life or impair recreational values or activities.

The proposed provision aims in particular to reduce the discharge of the greenhouse gas CO<sub>2</sub> (carbon dioxide) and other greenhouse gases.

*To section 56*

According to the proposed provision, the Greenland Government must attach importance to, for example, the consideration for avoiding impairment or any other negative impact on the climate when making a decision on the granting of a licence for or approval of an activity or the establishment and operation of a facility that is subject to this bill.

*To section 57*

It is proposed that a licence for or an approval of an activity or a facility mentioned in section 56 that must be presumed to have a significant negative impact on the climate may be granted only on the basis of an assessment of the impact of the activity or facility on the climate. Furthermore, it is demanded according to the proposed provision that the public and authorities and organisations affected have had an opportunity to express their opinion on it. It is proposed that the assessment should be made according to the rules on environmental impact assessment (EIA); see Part 15 of the bill.

*To section 58*

It is proposed that the Greenland Government may lay down specific provisions on climate protection, including provisions on the application of national or international rules, agreements or guidelines concerning climate protection. The idea is that the Greenland Government may under powers conferred by the proposed provision supplement the rules of sections 56-57, insofar as this is appropriate to ensure the effectiveness of this bill and insofar as it is in accordance with the purpose of this bill.

*To section 59*

According to the proposed provision, the rules of this bill on nature conservation are intended to help protect nature and the environment so that society can develop on a sustainable basis respecting human conditions of life and respecting preservation of animal and plant life.

Reference is made to the explanatory notes to section 51(1), which to a great extent correspond to the proposed provision, although section 59 aims particularly at nature conservation.

*To section 60*

The provision establishes that the Greenland Government must attach importance to, for example, the consideration for avoiding impairment of nature and the habitats of species in designated national and international nature conservation areas and disturbance of the species for which the areas have been designated when making a decision on the granting of a licence for or approval of an activity or the establishment and operation of a facility that is subject to this bill.

It is decided under national and international law applicable in Greenland which areas are national and international nature conservation areas and which national and international rules apply to such areas.

*To section 61*

To subsection (1)

It is proposed under this provision that for activities or facilities that must be presumed to have a significant impact on nature, licences may be granted only on the basis of an assessment of the impact of the activity or facility on nature and after the public and authorities and organisations affected have had an opportunity to express their opinion on it.

The assessment is made according to the rules on environmental impact assessments (EIA); see Part 15.

If the Greenland Government considers it necessary, the public must be heard concerning the assessment of the impacts on the location before the licence is granted. Such a hearing could be held in connection with a hearing on the EIA report. It will depend on a specific evaluation in each case whether a hearing should be held concerning an assessment of the impacts on the location. It depends on, for example, how extensive the impacts are and whether an EIA report is prepared at the same time.

In many cases, it will be relevant to perform an environment impact assessment before a licence for or an approval of an activity or a facility is granted. The provision should be seen in conjunction with the rules on EIA in Part 15 of the bill. The provision aims at the performance of an assessment of the impacts of the project on the location in consideration of the conservation objectives for the location. Such an assessment will not normally be performed as part of an EIA.

To subsection (2)

It is proposed that a licence for or an approval of an activity or a facility mentioned in section 60 that must be presumed to have significant impacts on a designated national or international nature conservation area may be granted only on the basis of an assessment of the impacts of the activity or facility on the location, considering the conservation objectives for the location.

It is proposed that it should be decided under national and international law applicable in Greenland which areas are national and international nature conservation areas and which national and international rules apply to such areas.

To subsections (3)-(4)

According to the proposed provision, a licence or an approval in the instances mentioned in subsections (1) and (2) may be granted only if

- (1) The activity or the facility does not damage 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 imperative to perform the activity or establish and operate the facility; but see subsection (4).

If an impact assessment shows that the project does not damage international nature conservation areas, there is nothing to prevent the granting of a licence for the project provided that other relevant conditions for the granting of a licence have been met.

If, on the other hand, the assessment is that the area will be exposed to a significant negative impact if the project is carried out, a licence for the project may be granted only if important public interests, including interests of a social or economic nature, make it imperative to carry out the project because the project is deemed to be of decisive importance to the country or region and because alternative locations of the project are deemed impossible.

The prioritisation of social considerations mentioned in subsection (3) must in any circumstances be in compliance with the international legal obligations by which Greenland is bound in connection with the designation of an area as a national or international nature conservation area. A licence or an approval that concerns a nature conservation area that has been designated by statute must not be more extensive than allowed by the Nature Conservation Act.

To subsection (5)

It is proposed that when a licence or an approval is granted under subsection (3) or subsection (4), the Greenland Government should lay down appropriate compensatory measures and that such compensatory measures should also be stated as conditions for the licence or the approval.

According to the proposed provision, expenses for any compensatory measures will be covered by the licence or approval applicant.

If a licence is granted under the proposed subsection (3) or under subsection (4) even though a significant negative impact on the area may be demonstrated, appropriate compensatory measures must be laid down. It may, for example, be conditions imposed on the applicant to take special measures to compensate for the negative environmental impacts in the form of application of the best available techniques and the best available practice in connection with construction, operation and maintenance, designation of alternative nature conservation areas or the implementation of restrictions for hunting, operation, etc. The determination of appropriate compensatory measures will depend on a specific evaluation in the individual case and will be within the framework of the principle of proportionality.

#### *To section 62*

It is proposed that the Greenland Government may lay down specific provisions on nature conservation and the matters mentioned in sections 59-61, including provisions on the application of national or international rules, agreements or guidelines concerning nature conservation.

The idea is that the Greenland Government may under powers conferred by the proposed provision supplement the rules of sections 59-61, insofar as this is appropriate in order to supplement the provisions of this bill or ensure the effectiveness of this bill and insofar as it is in accordance with the purpose of this bill.

*To section 63*

To subsection (1)

The proposed provision states the scope of the rules on environmental liability and responsibility. The provisions define the meaning of environmental damage as defined in the Act.

Generally, environmental damage is characterised by disturbance of the natural ecological balance – primarily in the form of pollution. Pollution means pollution in a broad sense, and the concept therefore also includes noise, vibrations, heat, light, etc.

To subsection (2)

According to the proposed provision, the responsible party means the party performing, being in charge of or supervising an activity subject to this bill. If the party concerned is a party other than the licensee under a licence relating to the activity, the licensee is also responsible for the activity. The two parties are then jointly (jointly and severally) liable and responsible and the responsible party under the rules of this part of the bill.

The responsibility for pollution arising from activities under the bill and involving environmental damage or imminent danger of environmental damage is unconditional according to the bill and lies with the party responsible for the operation of these activities.

The concept "responsible party", see subsection (1), is the natural or legal person according to private or public law who carries on or supervises the commercial activity.

Thus, generally, the party responsible for the activity is considered the party responsible for environmental damage or an imminent danger of environmental damage; see subsection (2). This means that the responsibility for environmental damage or an imminent danger of environmental damage caused by pollution arising from the carrying on of the commercial activity is unconditional.

To subsection (3)

It is proposed that the party responsible for environmental damage or imminent danger of environmental damage means the party under subsection (2) above who is responsible for an activity that has caused or contributed to causing the damage or the imminent danger of damage. This provision applies irrespective of how the damage or the imminent danger of damage has arisen and even though the damage or the imminent danger of damage has arisen as a result of fortuitous circumstances.

Reference is made to the explanatory notes to subsection (2).

*To section 64*

To subsection (1)

It is proposed that the party responsible for an imminent danger of environmental damage must immediately initiate necessary preventive measures that can avert the imminent danger of environmental damage and notify the Greenland Government of the danger and the measures taken. According to the proposed provision, the party responsible for environmental damage must furthermore immediately initiate any practically feasible measure

that can limit the scope of the damage and prevent any further damage and notify the Greenland Government of the damage and the measures taken.

With the provisions of section 64, more extensive immediate duties to act are proposed for the party responsible for environmental damage or an imminent danger of environmental damage. Thus a duty is established for the party responsible for environmental damage or an imminent danger of environmental damage to immediately initiate the necessary measures to prevent an imminent danger of environmental damage and, if the damage has occurred, to immediately initiate any practically feasible measure to limit and prevent any additional environmental damage.

Thus it will not necessarily be sufficient to prevent pollution or additional pollution. On the contrary, it may also be necessary to quickly limit the consequences of any pollution that has occurred, for example by preventing the pollution from spreading. These duties to act may thus mean that the responsible party must remove any pollution that has occurred, for example by excavation, as quickly as possible. It should be pointed out that the duties to act and the enforcement of these duties have as a prerequisite that the responsible party can immediately establish that pollution that has occurred means that environmental damage has occurred or that an imminent danger of environmental damage has arisen.

To subsection (2)

According to the proposed provision, the Greenland Government supervises that the duties are performed and may issue enforcement notices concerning the performance of the duties and the adoption of measures in relation thereto.

#### *To section 65*

To subsection (1)

It is proposed that the Greenland Government may issue an enforcement notice to the responsible party to provide information of importance for an assessment as to whether environmental damage or an imminent danger of environmental damage has occurred. According to the proposed provision, an enforcement notice may, for example, be issued to the effect that the responsible party must for its own account conduct studies, make analyses and take measurements of substances or materials or similar with a view to clarifying the cause and effect of pollution that has occurred.

The Greenland Government may issue an enforcement notice to the responsible party to the effect that the responsible party must for its own account provide information, conduct studies, etc. that are necessary for an evaluation as to whether environmental damage or an imminent danger of environmental damage has occurred.

To subsection (2)

It is proposed that enforcement notices may be issued irrespective of the responsible party not having the right of use of the property or the area where pollution has occurred. According to the proposed provision, the enforcement notice may lay down a duty to restore the polluted property or the polluted area, etc.

According to the proposed subsection (2), an enforcement notice may also be issued even though the responsible party does not have the right of use of the property that is affected by



pollution and where surveys, etc. may need to be conducted. The provision is necessary because the party responsible for the activity that has resulted in the pollution is not always also the party having the right of use of the polluted property. In such cases, the enforcement notice must stipulate a duty to restore the property after the surveys, etc. have been completed.

To subsection (3)

It is proposed that the Greenland Government may issue an enforcement notice to the party having the right of use of the property or the area to the effect that the party concerned must tolerate the responsible party or others conducting studies or restoring the property or area, etc, if the responsible party does not have the right of use of the property or the area.

According to the proposed subsection (3), the Greenland Government may issue an enforcement notice to the party having the right of use of the property to the effect that the party concerned must tolerate the responsible party or others complying with the enforcement notice of the supervisory authority to conduct studies etc. of the pollution and its impacts.

The provisions of subsections (2) and (3) should be interpreted subject to the limitation that enforcement notices cannot be issued where they would constitute compulsory acquisition.

To subsection (4)

It is proposed that enforcement notices under subsection (3) should be binding on the party who at any given time has the right of use of the property or the area where pollution has been demonstrated.

Reference is made to the explanatory notes to subsections (1)-(3).

*To section 66*

To subsection (1)

The provision confers powers on the Greenland Government to reach decisions on any measures, etc. in the instances where pollution involves environmental damage or an imminent danger of environmental damage.

To subsection (2)

It is proposed that the Greenland Government should publish the decision. According to the proposed provision, the publication of a decision that environmental damage has occurred or that there is an imminent danger of environmental damage is for the account of the responsible party. It is proposed that the Greenland Government may lay down specific provisions on such publication.

*To subsection (3)*

It is proposed that the Greenland Government should be authorised to lay down specific provisions on environmental liability and responsibility. With the proposed authorisation the Greenland Government may lay down specific provisions where this appears appropriate to ensure the effectiveness of this bill when this is in accordance with the purpose of this bill.

*To section 67*

To subsection (1)

It is proposed that the rules of this bill on compensation for environmental damage should apply to damage caused by the pollution of the soil, the sea, the sea floor, the subsoil, water or air as part of the activities under the bill. The meaning of the concepts "soil, sea, sea floor, subsoil, water and air" is their meaning in a broad sense. On this basis, the concept "water" covers, for example, groundwater, water courses, lakes and the sea. The concept "pollution" is not defined in the bill, but is to be interpreted in the same way as in other environmental legislation in force in Greenland. The pollution or vibrations, etc. under subsection (2) must be caused as part of an activity covered by the bill. Activities that are not covered by the bill therefore cannot give rise to liability under the bill.

To subsection (2)

It is proposed that the rules set out in subsection (1) should apply by analogy to pollution and any other negative impact on the climate or nature as well as disturbances in the form of noise, vibrations, heat, light or similar.

*To section 68*

The provision is worded in accordance with the current state of the law and defines the meaning of the term "damage" in this bill. According to this meaning, non-financial losses cannot be compensated unless specially authorised. Furthermore, only the persons who must be deemed to belong to the group of persons that is afforded protection from a law of damages perspective may be compensated for the purely financial assets.

To paragraph (i)

The provision establishes that compensation may be granted for personal injury and loss of dependency caused by pollution of the environment. The term "personal injury" covers also mental illness caused by shock. However, compensation for such illness may be claimed only insofar as the person concerned belongs to the group of persons entitled to recover compensation, for example in the instances where the person concerned has been in danger or has directly suffered physical harm.

The payments under this provision are regulated in detail in general rules on liability. Notwithstanding that it does not appear expressly from the wording of the provision, it is therefore assumed that a person who has paid for a funeral may be compensated for "reasonable funeral expenses" irrespective of whether the person concerned is entitled to compensation for loss of dependency; see section 12 of the Damages Liability Act.

To paragraph (ii)

The provision establishes that compensation may be granted for damage to property caused by pollution of the environment. The provision covers especially damage to real property and personal property, including liquid materials. Thus, according to the provision, a sheep farmer whose fields and crops are destroyed owing to pollution of the environment must be afforded the possibility of being compensated for the loss suffered thereby. The provision covers also the loss of profits related to the damage to, for example, the real property or the personal property. A precondition for this is that the loss of profits is a foreseeable result of the damage to the real property or the personal property. If the loss of profits is not related to the loss of property, it cannot be compensated under this provision, but possibly under the provision of paragraph (iii).

To paragraph (iii)

Under this provision, pure financial losses are compensated. A precondition for compensation under this provision is that the loss is due to a deterioration of the environment beyond the expectable and tolerable according to the nature of the area.

The question as to who may claim compensation for a financial loss (of profits) under the provision must be decided in the legal practice on the basis of general principles of the law of damages, including the rules on reasonable foreseeability and on the interests and groups of persons afforded protection under the law of damages.

To paragraph (iv)

According to the provision, reasonable costs to prevent and abate damage are compensated. The provision establishes a right to compensation of costs incurred to limit damage under paragraphs (i)-(iii) that has already occurred and to abate damage that may occur. Thus the provision is closely related to the obligation of an aggrieved party according to the general principles of the law of damages to take reasonable measures to prevent or limit his loss ("duty of mitigation").

If – with a view to preventing or abating damage under paragraphs (i)-(iii) – it is necessary to remove pollution of common goods such as the air or the sea, etc. the provision allows compensation for reasonable costs related thereto. Such costs may, for example, be reasonable costs to examine the polluted area and to analyse the polluting substances at chemical laboratories, etc. One of the implications of the requirement of "reasonable costs" is that the aggrieved party must as far as possible limit his costs. The bill does not contain any specific provisions as to who is entitled to take measures to abate or limit damage under paragraphs (i)-(iii) and claim compensation for the costs involved from the responsible party.

This question must therefore be decided on the basis of the current state of the law in relation to the group of persons afforded protection under the law of damages. According to the current state of the law, generally only the person who has the actual or potential right of use of the personal or real property in question may take abatement measures and claim compensation for the costs of such measures from the responsible party.

According to the provision, compensation may furthermore be claimed for reasonable costs of restoration of the environment. The purpose of the provision is to afford the aggrieved party a right to compensation for expenses that are necessary to restore the environment to the same standard as existed prior to the damage (pollution). Insofar as measures can be initiated to abate or limit pollution of the common goods, the costs involved in this may be compensated under the provision. However, such cost may be compensated only if they are considered "reasonable".

As a characteristic feature of common goods is that nobody has any special rights to them, private individuals, including environmental organisations, who pay the expenses for abatement of pollution of the environment or for restoration of the environment, may normally only claim compensation from the responsible party if a special statutory basis exists to do so. This is because those concerned will not be able to meet the traditional right of use criterion according to which compensation may be claimed only when the aggrieved party has an actual or potential right of use of the damaged asset.

Insofar as the environmental authorities have a right or a duty to take abatement measures or restore the environment the costs for such activities may be compensated under the provision.

The provision does not mean that the costs of abatement or prevention of damage under paragraphs (i)-(iii) or of restoration of the environment must have been defrayed. Where the costs have not been defrayed, the provision is, however, based on the condition that the party liable for compensation may refuse to disburse any amount until it has been sufficiently proved that the amount will be spent on reasonable abatement measures or on restoration of the environment.

*To section 69*

To subsection (1)

According to the proposed provision, the party who causes pollution in connection with an activity under this bill must compensate the damage caused by the pollution even if the damage is accidental. With the provision of subsection (1), strict liability (liability without fault) is introduced for the party who causes pollution that leads to damage in connection with an activity under this bill.

Liability under the provision applies only if the damage is caused by the activities under this bill that are performed by the enterprise with which the strict liability lies. If the damage is due to matters that are not connected with these special activities, the enterprise is therefore not subject to strict liability under the provision.

The strict liability is linked with the responsible party under the provision of section 63. A person who is employed in the enterprise and who performs the act that results in liability for the responsible party on a basis of strict liability is therefore liable only according to the general rules of damages; see for example sections 19 and 23 of the Damages Liability Act.

The strict liability under the provision generally presupposes that the aggrieved party proves that the party liable for compensation has exhibited behaviour in the form of an act or omission, that this behaviour has caused pollution and that this pollution has resulted in damage. It is assumed, however, that the aggrieved party may benefit from the relaxation of the burden of proof provided for by the general principles of the law of evidence.

The provision does not specify the scope of the strict liability in instances where there are competing or concurrent causes of the damage. This question must therefore be decided according to the current state of the law.

Where the responsible party has caused pollution in interaction with the forces of nature, so that the forces of nature act as the event triggering the damage, liability is generally incurred under the provision. However, a precondition for this is that the natural phenomenon is predictable or forecastable. Thus the responsible party may incur strict liability if the trigger is a natural phenomenon that occurs at regular intervals (frost, storm, heavy precipitation, etc.).

If, on the other hand, the trigger is natural disasters such as earthquakes, hurricanes, typhoons or similar force majeure situations, liability is not incurred under the provision irrespective of the fact that the provision does not expressly exempt such situations. The question of

*relaxation of the liability of the party causing the damage* must also be decided according to the current state of the law. In this connection, reference may be made in particular to the fact that the liability of the party causing the damage may be reduced or lapse according to the provision in section 24(1) of the Damages Liability Act when the liability will be unreasonably burdensome or when special circumstances generally make such reduction or lapse reasonable.

The question of the division of liability must, in the event that multiple parties cause the damage and are jointly and severally liable, also be decided on the basis of the current state of the law; see in particular section 25 of the Damages Liability Act according to which liability is divided on the basis of what must be regarded as reasonable in consideration of the nature of the liability and the circumstances in general.

To subsection (2)

It is proposed that liability under subsection (1) should not be incurred if the damage is due to the activity having been performed in accordance with indispensable provisions laid down by a public authority. According to the provision of subsection (2), strict liability will not be incurred if the damage is due to the activity having been performed in accordance with indispensable directions laid down by a public authority. The responsible party must prove that the conditions for exemption from liability exist. This means that the provision does not exclude the possibility that the responsible party may incur strict liability under subsection (1) for environmental damage even though the enterprise has acted in accordance with a licence granted by a public authority. The provision does not prevent the responsible party from asserting other reasons for exemption from liability, such as self-defence, in accordance with the general rules of the law of property and obligations in this respect.

The bill contains no specific rules to the effect that a responsible party who is subject to strict liability will be exempted from liability with reference to the damage having been caused by a third party deliberately or through gross negligence. Therefore, strict liability will also apply in this case. However, the responsible party will have recourse against a third party according to the provision of section 25 of the Damages Liability Act and the liability of the enterprise in relation to the aggrieved party may be eased in special cases according to section 24 of the Damages liability Act. Furthermore, the general provision of section 24 of the Damages Liability Act applies to the question of whether the aggrieved party's claim for compensation should be reduced or possibly lapse owing to contributory negligence or acceptance of risk.

*To section 70*

To subsection (1)

It is proposed that an agreement concerning derogation from the rules of this bill on compensation for environmental damage should be invalid if the agreement was concluded before the occurrence of the damage and the derogation is to the detriment of the aggrieved party.

The reason for the provision is that a potentially aggrieved party will have difficulties in foreseeing the consequences of an agreement concluded before damage has occurred.

The provision does not apply to agreements concluded after environmental damage has occurred, which means that for example a party who has incurred liability has the possibility of concluding settlement agreements, etc.

Nor does the provision concern insurance agreements relating to environmental damage irrespective of when such agreements are concluded; see also subsection (2).

To subsection (2)

The provision points out that the rule of subsection (1) does not constitute an obstacle to a responsible party who wishes to take out a third party liability insurance against claims as a result of the rules on environmental liability and responsibility and compensation for environmental damage. The party liable for compensation may then refer the aggrieved party to its insurance company in the customary way.

#### *To section 71*

It is proposed that the rules of this part of the bill on compensation for environmental damage should not limit the access of the aggrieved party to damages according to the general law of contractual and non-contractual damages or in pursuance of provisions laid down in or pursuant to rules in other parts of this bill or other legislation.

Rules have been laid down at various places in legislation on, for example, strict liability for damage that occurs in the area concerned. To the extent that rules under other legislation affords the party who suffers damage or injury owing to pollution of the environment, better legal rights than do the provisions of this bill, the aggrieved party will be able to claim compensation according to these special statutory rules. A party who has suffered damage or injury owing to environmental pollution therefore has a choice between claiming compensation under the provisions of this bill or under other statutory provisions that may be more favourable to the party concerned.

Furthermore, the provision regulates the relationship between the rules on compensation for environmental damage laid down in case law in non-statutory areas and the rules appearing from the bill. Thus, the provision does not limit the right of the aggrieved party to claim compensation according to the general law of damages.

The rules on compensation for environmental damage of this bill take precedence over the general law of damages to the extent that there are differences between the general law of damages and the rules on compensation for environmental damage.

#### *To section 72*

It is proposed that the Greenland Government should be authorised to lay down specific provisions on compensation for environmental damage and the matters mentioned in Part 14, including provisions on the application of national or international rules, agreements or guidelines concerning compensation for environmental damage. The idea is that the Greenland Government may under powers conferred by the proposed provision supplement the rules insofar as this is appropriate to ensure the effectiveness of this bill and insofar as it is in accordance with the purpose of this bill.

*To section 73*

By using the current Danish and European rules as a basis for the proposed rules, it is ensured that environmental rules already known by the parties who are liable will apply in Greenland in the mineral resource and subsoil use areas. The Greenland Parliament Order on the Environment contains no requirements on the preparation of EIA reports in connection with the approval of projects and plans that may have significant environmental impact, but by amendment of the Greenland Parliament Order on the Environment by Greenland Parliament Order No. 8 of 15 November 2007, the Greenland Government is authorised to lay down rules concerning environmental impact assessment (EIA) of large facilities.

The EU rules are implemented in Denmark by executive orders. These orders include Order no. 126 of 4 March 1999 on environmental impact assessment of extraction of mineral resources in the sea bed (EIA); Order no. 884 of 21 September 2000 on environmental impact assessment (EIA) of projects for recovery of hydrocarbons and installation of pipelines in the Danish territorial sea and continental shelf area; Order no. 809 of 22 August 2005 on environmental impact assessment of certain facilities and measures in the territorial sea (EIA); and Order no. 1335 of 6 December 2006 on environmental impact assessment (EIA) of certain public and private facilities pursuant to the Planning Act.

To subsection (1)

The proposed provision means that the approval of an activity subject to an EIA cannot be granted until an environmental impact assessment has been made of the performance of the activity. Moreover, it follows from the proposed provision that the Greenland Government must approve the EIA report before the activity can be implemented. The provision directly lists the activities that are subject to an EIA as this is assessed to be more user-friendly. The activities mentioned thus imply that an EIA report must be prepared before the Greenland Government can decide whether to approve an exploitation and closure plan pursuant to section 19; see section 43.

According to the proposed provision, the Greenland Government cannot grant a licence for or approval of an activity subject to an EIA before an EIA assessment has been made and a report thereon prepared.

The establishment of transit pipelines for transport of hydrocarbons and transit cables in the Greenland part of the continental shelf requires permission granted by the Greenland Government pursuant to section 4 of the Continental Shelf Act, see section 6, second sentence, as amended by section 98(3), paragraph 2, of this bill. Permission pursuant to the Continental Shelf Act can be granted only in compliance with the rules of this bill, see section 6, second sentence, of the Continental Shelf Act.

To subsection (2)

According to the proposed provision, in cases where an amendment or extension is assumed to have the potential to negatively affect the environment, the Greenland Government may require that an environmental impact assessment (EIA) and a related report be prepared. This implies, for example, that the preparation of an EIA and related report may be required when an activity or the operation of one of the facilities mentioned in subsection (1) is desired to be temporarily suspended, see section 44(1), and the temporary suspension must be assumed to

have significant (negative) impact on the environment. The same applies to dismantling (removal) or closure of one of the facilities mentioned in subsection (1).

The purpose of the EIA rules is to assess the environmental impact of the activity as an overall consideration in relation to the environmental sustainability of the area. This means that otherwise completely identical activities may in some contexts be subject to an EIA and not in other situations. One of the circumstances taken into account is the scope of the environmental impact of the activity – as regards both intensity and geographical extent – compared with other activities in the area and the area's vulnerability. Thus, an extension of an existing facility should not be assessed in isolation as an independent facility in relation to critical load and recommended threshold values. The construction project must be assessed together with the environmental impact from already existing facilities. This may mean that a construction project that, seen in isolation, will not significantly affect the environment may still be subject to an EIA. This will clearly be the case if the existing facility already causes significant environmental impact.

The issue of whether a facility is subject to an EIA also involves the location of the facility in relation to the vulnerability of the geographical area. An activity will be subject to an EIA if it must be expected to be in conflict with the area's land use, relative wealth of natural resources, quality and regeneration capacity or sustainability of the natural environment.

If a conflict may arise between a planned activity and the present land use – not necessarily only for the area concerned but also in relation to neighbouring areas that may be directly or indirectly affected by an activity – it will generally cause significant environmental impact and thus be subject to an EIA.

In the case of wildlife refuges and nature reserves, a detailed description of the aim of the wildlife refuge or nature reserve concerned has most often been prepared in connection with its designation or establishment. Moreover, detailed planning, including objectives and preservation interests, will often be implemented. Activities that may prevent or impede the purpose of the wildlife refuge or the nature reserve must be assumed to significantly affect the environment and thus be subject to an EIA according to the criteria that the Greenland Government intends to issue pursuant to subsection (3). The above applies irrespective of whether the reason for the impact on the wildlife refuge or the nature reserve is a direct consequence of the presence of the activity or a consequence of the operation of the activity, including also more indirect impacts such as traffic to or from the activity or infrastructure required in relation thereto.

If the establishment or extension of a sewage treatment plant for cleaning wastewater is a condition for the activity, significant environmental impact cannot be excluded, and the activity may be subject to an EIA. If the activity involves the need for removal of hazardous waste, the activity will generally be subject to an EIA if the hazardous waste cannot be removed or handled through already approved or legally existing waste management schemes, removal methods or recycling methods. Also other waste may result in an EIA if the waste cannot be removed within the framework of already approved or legally existing waste treatment schemes, removal methods or recycling methods.

An activity may give rise to pollution and nuisance for which either recommended or binding standards or threshold limits have been laid down. It must thus be ensured already at the time



of the planning of the activity that the recommended standards and threshold limits can be met.

To subsection (3)

According to the proposed provision, the Greenland Government decides when an EIA and a related report must be prepared pursuant to subsections (1) and (2). The Greenland Government lays down in an executive order the criteria to which importance must be attached when a decision is to be made pursuant to section 73(1) and (2) of the bill. The intention is that, where relevant, the Greenland Government may approach local or central authorities that have special insight into, for example, the local or biological conditions in the areas concerned.

*To section 74*

To subsection (1)

According to the proposed provision, the applicant and – insofar as this is not the same party – the entity responsible for an activity subject to an EIA are obliged to prepare and submit the EIA report as well as a non-technical summary of the report to the Greenland Government. The scope, form and contents of the non-technical summary may be regulated in the guidelines mentioned in subsection (2).

To subsection (2)

It is proposed that the Greenland Government may decide that further material for the environmental impact assessment must be provided or that special circumstances must be made the subject of further studies.

To some extent the provision corresponds to section 3(3) of Order no. 884 of 21 September 2000 on environmental impact assessment (EIA) of projects for recovery of hydrocarbons and installation of pipelines in the Danish territorial sea and continental shelf area.

To subsection (3)

The Bureau of Minerals and Petroleum's "Guidelines for preparing an Environmental Impact Assessment (EIA) for exploration, development, production, decommissioning and transport of hydrocarbons offshore Greenland", issued on 16 May 2006, and "BMP guidelines – for preparing an Environmental Impact Assessment (EIA) Report for Mineral Exploitation in Greenland", issued on 13 March 2007, will to a wide extent be able to serve as the basis for environmental impact assessments and the preparation of EIA reports.

*To section 75*

To subsection (1)

According to the proposed provision, the Greenland Government must publish a notice when an EIA report has been submitted to the Greenland Government. The provision also implies that such notice must be published on the Greenland Government's website or in another suitable manner, for example in a national newspaper or through the electronic media.

To subsection (2)

According to the proposed provision, the Greenland Government publishes a notice on the decision when it has been made. According to the provision, the publication must be made in

the same manner as when the report was published on the Greenland Government's website or in another suitable manner.

*To section 76*

To subsection (1)

The provision implies a requirement that the activities mentioned in the provision may only be carried out if a social sustainability assessment (SSA) has been made, including an assessment of the impact on society of performing the activity, and the Greenland Government has approved a report thereon (SSA report). The proposed provision should be seen in connection with the provision in section 1(2) stating the purpose of the Act, according to which the Act aims for social sustainability in connection with mineral resource activities. The requirement for social sustainability is also meant to ensure that activities are planned in such a manner that society can develop on a sustainable basis, and that the necessary steps are taken to counteract negative impact for society while positive development potential is identified and exploited if possible.

There are no similar rules on SSA reports in other current legislation in Greenland.

To subsection (2)

A similar requirement on application of the SSA rule in subsection (1) applies to an activity if it must be assumed to have significant impact on social conditions. There is thus a need for a social impact assessment to be made and an SSA report to be prepared.

*To section 77*

To subsection (1)

According to the proposed provision, the applicant and – insofar as this is not the same party – the entity responsible for an activity subject to an SSA are obliged to submit an SSA report as well as a non-technical summary of the report to the Greenland Government.

To subsection (2)

The SSA report must include a description of the social – positive and negative – impacts of the contemplated activities and facilities as well as a description of the measures planned to counteract any negative impact and the initiatives that must be taken to exploit the development potential in the best possible way.

An SSA report must help ensure that the planning and management of activities under the Mineral Resources Act are based on surveys of the impact that activities may have nationally and locally on the Greenland society. An SSA report should contain a description and an assessment of the impact on society in the local communities affected, including employment opportunities, social balance and cultural values. Furthermore, an SSA report should deal with measures to ensure that society develops on a sustainable basis. The SSA report must not only cover individual social conditions, but also give an account of the interaction between the conditions, mutual impact between the conditions and cumulative effects of impacts on the conditions. The aim is a holistic account of the social impact of the activities.

To subsection (3)

An SSA report should include the following information:

A description of the activity or the facility to which the activity relates, and a description of important alternatives relating to the activity or the facility, including in particular the most important alternatives that the SSA responsible party has examined and the impact of the non-performance of the activity or the non-establishment and non-operation of the facility (zero alternatives).

A list of the most important alternatives and alternative locations that may have been examined or further considered, including by others. A description of the most important reasons for the SSA responsible party's choice of alternative considering the impact on social conditions and of the most important criteria for the choice.

A description of the social conditions before the performance of the activity or establishment and operation of the facility with a view to assessing predictable changes of the social conditions with a description of the short- and long-term impact of the facility on social conditions.

The description must include the direct impact of the activity or facility and the indirect short- and long-term, positive and negative impact of the activity or facility. The description must contain a specification of the methods used by the SSA responsible party to forecast the impact on social conditions.

Furthermore, an SSA report should describe the measures contemplated with a view to avoiding, reducing and if possible neutralising significant negative impact on social conditions.

The SSA report should contain a list of any difficulties (technical defects or lack of knowledge) experienced by the SSA responsible party in connection with the collection or evaluation of the required information as well as any defects in the information or the assessment of the social impact. Finally, the SSA report must to the relevant extent deal with matters that have been pointed out by the public or the authorities affected.

To subsection (4)

When an SSA report has been submitted to the Greenland Government, the Government must, according to the proposed provision, publish a notice to this effect to ensure the public's involvement and possibility of voicing their opinions. The provision also implies that the notice must be published in a national Greenland newspaper and on the Greenland Government's website.

*To section 78*

It is proposed that the Greenland Government may decide that further material for the social impact assessment must be provided, or that special conditions must be made the subject of further studies. In that connection, it will be highly relevant to ensure that local authorities have been involved, especially with a view to obtaining information and assessments of local labour market conditions and educational measures to provide the required qualified labour.

*To section 79*

To subsection (1)

It follows from the provision that the licensee is ultimately responsible for ensuring that the ALARP principle has been implemented on the offshore facility. ALARP is an abbreviation of "as low as reasonably practicable".

The ALARP principle is based on the principle that players who subject others to safety or health risks through their actions should also be responsible for ensuring that the risks are eliminated or reduced. The risks must be reduced to a level that is "as low as reasonably practicable".

The ALARP principle is an internationally recognised and applied principle in the offshore industry. It is mainly used by the authorities in countries with offshore activities where offshore health and safety has high priority. The principle is also used in other contexts where risk assessment and reduction are important elements. Consequently, it is clearly important in terms of health and safety that the national legislation in Greenland is based on the international offshore industry's understanding of concepts and principles.

Operationally, the requirement of reducing the risks according to the ALARP principle involves first and foremost unconditional observance of all specific requirements and directions as well as threshold limits in rules and legislation. Secondly, enterprises must assess whether it is possible to completely remove or further reduce the health and safety risks. The latter also applies in cases where legislation contains no specific directions or threshold limits, but only broad and functional requirements. The ALARP principle means that the enterprises are responsible for reducing health and safety risks as much as is practically possible from time to time in accordance with technical and social developments, in contrast to previously applied legislative practice where the authorities were responsible through regular issuance of rules. The principle is also in accordance with the general rule of the provision in section 1(2) of the bill, which prescribes that activities covered by licences under this bill must be performed according to acknowledged best international practices in the area.

To subsection (2)

The provision in subsection (2) establishes the licensee's duty to ensure that supervision is exercised of the operation of offshore facilities taking place in accordance with legislation, see section 6, including the ALARP principle which has been laid down in this act.

To subsection (3)

The provision in subsection (3) establishes the licensee's obligation to give the enterprise responsible for operation the opportunity to meet its health and safety obligations which correspond to the licensee's obligations in respect of the party that performs exploration for and production of hydrocarbons on behalf of the licensee.

Since the licensee decides the financial framework to be applied to the activities, the licensee also has control of the possibilities available to the enterprise responsible for operation to meet its obligations.

To subsection (4)

The provision authorises the Greenland Government to lay down more specific rules on the matters mentioned in the provision, including rules on the duty to prepare safety and health

reports to document that the requirements in the provisions of section 79(1)-(3) have been met.

The purpose of being able to lay down requirements concerning the documentation is both to promote a high level of health and safety that reflects society's technical and social development and to create the framework to ensure that offshore health and safety issues can be solved by the enterprises themselves. The standard for acceptable health and safety conditions is not static, but develops in step with society's technical and social development. The provisions of this part are meant to create the framework for enabling the enterprises to solve health and safety issues themselves. It is up to the enterprises themselves to determine how to achieve a high level of health and safety. The rules must thus be functional requirements, i.e. the provisions lay down what to achieve and not how it is achieved.

Moreover, the provision authorises the Greenland Government to lay down more specific rules on the content of the health and safety management system. Such rules may, for example, include provisions on:

- Objectives
- Organisation
- Management of training and competencies
- Risk management through, for example, the enterprise's determination of its own health and safety requirement specifications to ensure compliance with legislation
- Risk management on the basis of measurements of the effect of health and safety measures
- Documentation, including reporting routines
- Audit and evaluation
- Update of the system.

The standards will always be minimum standards, since, according to the ALARP principle (see subsection (1), the enterprise itself is responsible for lifting its health and safety standards to the required level.

The provision also authorises the Greenland Government to lay down specific rules for the verification scheme, including requirements to the effect that certain safety-critical parts – such as load-bearing structures – must be verified, and procedures and documentation requirements must have been met.

Finally, the provision authorises the Greenland Government to lay down rules on the health and safety training of employees.

#### *To section 80*

To subsection (1)

It is of considerable importance to set up a committee to coordinate the authorities' efforts in the event of major offshore accidents. This type of accident may involve the risk of pollution of the sea, for example by way of an uncontrolled oil spill. Therefore, the emergency committee will, like the present Action Committee, also include representatives of the environmental authorities and will also coordinate the government's environmental

preparedness with a view to stopping an uncontrolled oil spill or gas leak and combating oil pollution at sea, caused by exploration for or production of offshore oil and gas.

To subsection (2)

The rules of procedure pursuant to subsection (2) may include specification of the composition and activities of the committee.

*To section 81*

To subsection (1)

The provision proposes that the accident investigation board should be involved in accident situations arising from the installation or its equipment that have caused serious injury or death to persons or damage to the installation. Serious injury to persons means injuries that may cause permanent injury and injuries that entail sickness absence of more than approximately five weeks. Less serious incidents may be required to be investigated pursuant to the provision of subsection (2).

To subsection (2)

According to subsection (2), the Greenland Government may order the accident investigation board to investigate incidents that must be assumed to be of interest for health or safety reasons in connection with the use of an offshore facility, for example in connection with serious near accidents.

*To section 82*

To subsection (1)

In the general, on-going supervision by the authorities, contact and information will be via the enterprise and the safety representatives of the enterprise. The supervisory authority, members of the emergency committee and the accident investigation board may also obtain information from the employees insofar as this is necessary for their work. Information under subsection (1) includes only information already in the employee's possession.

To subsection (2)

The provision of subsection (2) establishes that those to whom duties have been assigned under the bill, as well as those acting on such persons' behalf, have an obligation to give the supervisory authority, the emergency committee and the accident investigation board the assistance required in connection with their investigations.

The provisions of subsections (1) and (2) also cover the situations where the supervisory authority needs verification of information given by an enterprise, either as spot checks or because the supervisory authority assumes that the information is incorrect. One example of this may be the results of an investigation commissioned by the enterprise from an external party, and which the enterprise refuses to surrender.

*To section 83*

The provision concerns the performance of activities covered by this bill. It appears from the provision that activities must be performed in accordance with acknowledged best international practices in the area and in an appropriate manner. Moreover, activities must be

performed in a sound manner as regards safety, health, the environment, resource utilisation and social sustainability.

The provision largely corresponds to section 23 of the current Mineral Resources Act. An amendment to the provision has been proposed so that it covers activities performed in accordance with all licences under this bill and includes the considerations of the provisions stating the aims of this bill.

The provision contains a general, overall requirement that – besides being subject to the rules of law in force in Greenland from time to time – the activities must be performed appropriately and in accordance with acknowledged best international practices under similar conditions. Furthermore, consideration for the environment, safety, resource utilisation and social sustainability is stressed. The same general principles will be key factors in the consideration by the authorities.

The proposed provision establishes that activities performed in accordance with licences granted under this bill must be performed in accordance with acknowledged best international practices in the area under similar conditions and in an appropriate manner. Moreover, such mineral resource activities are of course subject to the rules of law in force in Greenland from time to time. The establishment of the concept of best international practices is an ongoing, dynamic process where international developments in the areas of safety, health and the environment are taken into account. In connection with the establishment of best international practices, support may as hitherto be found in generally acknowledged principles such as ALARP, BAT and BEP. Because of the dynamics characterising the international mineral resource industry, a detailed specification of current standards would only be a snapshot and would soon be of no relevance.

Health, safety and the environment cover physical safety, the health and safety of employees in connection with work on the activities as well as general environmental concerns of importance to humans, flora, fauna and nature when performing mineral resource activities, subsoil activities or related energy activities in Greenland. In connection with the taking over of the mineral resource area, health and safety at work for offshore activities in connection with mineral resource activities is also taken over as a field of responsibility.

Sound resource utilisation means that the activities must be performed without unnecessary waste of resources and in consideration of society's long-term interests.

Social sustainability means that the social sustainability of a mineral resource or subsoil activity in a broad sense must be taken into account when it is decided whether a licence for the activity can and should be granted. For example, assessments must be made of the impacts the activities may have on local communities, and of the measures that can and should be implemented to avoid or counter significant negative impacts on local communities.

The provision applies to all activities performed in accordance with licences granted under this bill.

Sound resource utilisation will mean that waste of mineral resources is avoided and that resources are utilised in accordance with best international practices to achieve the best utilisation possible of the resource concerned.

Health considerations are also an important element in the planning of the work with the mineral resource activities. Now, it is specifically mentioned as a key consideration. However, it is also a legitimate and important consideration in the current Mineral Resources Act. As a new feature, the mineral resource activities must be planned in such a way as to incorporate the consideration for social sustainability.

The intention is that the understanding and content of individual concepts will be further developed in step with other relevant developments. Thus, the acknowledged best international practices in the area applying from time to time must be followed, and licences must be granted and administered in accordance with current practice and knowledge at any time of the environment, health, etc.

#### *To section 84*

To subsection (1)

The provision largely corresponds to section 24 of the current Mineral Resources Act. An amendment to the provision has been proposed so as to cover activities performed in accordance with all licences under this bill and to include all considerations of the provision stating the purpose of this bill.

It is proposed that, as hitherto, the Greenland Government can lay down and update provisions and detailed rules on the performance of mineral resource activities, including rules on technical, safety, environmental and resource matters.

For example, processing facilities, transport facilities (including pipelines and shipment facilities) as well as other infrastructure established as part of the exploration or exploitation activities will be placed wholly or partly outside the area covered by the licence. In this connection, it is vital that the powers on which the authorities' consideration is based also apply to such facilities, etc.

The provision establishes that the Greenland Government may lay down rules in the mineral resource area subject to legislation in the areas bordering on or with relevance to the mineral resource area. One example of this is the relationship between the hydropower resources bill and the related activities under this bill.

The provision provides the basis for detailed regulation through rules within areas where powers have not been assigned to other authorities under other legislation. The provision thus involves no limitation or change of such powers. In some respects, the regulation made by the Mineral Resource Authority and the regulation made by the Working Environment Authority, the Danish Maritime Authority and the Civil Aviation Administration will interconnect and overlap with regard to safety matters.

This will, for example, apply in relation to terms and conditions for licensees where activities fall within the supervision and powers of the Working Environment Authority pursuant to the Greenland Working Environment Act, which should not, according to the bill, apply to work on offshore facilities. No rules can be laid down pursuant to section 84 on working environment on the territorial land. Insofar as the Greenland Self-Government wishes to lay down requirements concerning working environment in a licence, it may, in case of work on



the territorial land, be a requirement that the Greenland Working Environment Act or rules issued in pursuance of that act must be observed.

The scope of the provision should in particular be seen in the light of section 3 of the bill and the explanatory notes to that section.

It follows from section 3 of the bill that the Mineral Resource Authority must consider activities as a single, integral whole. The intention is that this bill will make it possible to regulate all matters relevant for the performance of mineral resource activities and other activities covered by this bill.

The authorisation applies to the establishment of rules on any relevant matter that may be related to the purpose and scope of application of this bill. As appears from the bill, it includes the possibility of laying down rules on technical matters and matters of safety, the environment, resource utilisation and social sustainability as well as health matters after the area of working environment for offshore facilities has been taken over as a field of responsibility. The Greenland Government may also lay down provisions on other matters, such as requirements for conducting surveys of ice, ocean and meteorology insofar as it is important to activities covered by the Greenland Parliament Act.

To subsection (2)

According to the provision, the Greenland Government may in a licence specify terms on all matters relating to the licence. It is in accordance with the previous practice for granting licences that provisions are specified in a licence on the mineral resource activities permitted and all other relevant matters relating to the licence. Terms on matters relating to licences can only be laid down insofar as they are in accordance with the purpose of this bill as stated in section 1 of the bill.

General terms will be laid down in standard terms and model licences, but a basis will still exist for granting individual terms against the background of specific circumstances as well as the type and scope of the activities concerned.

*To section 85*

To subsection (1)

The provision authorises the Greenland Government to lay down specific rules on import and export of mineral resources.

The aim of the provision is, for example in connection with rules on certification of precious stones, to allow the Greenland Government to lay down rules to the effect that certain types of precious stones must be registered with a view to avoiding that foreign stones are certified as Greenland stones. The provision also authorises the establishment of procedures regarding application for export licences, etc.

To subsection (2)

The provision concerns the Greenland Government's possibility for laying down rules and making decisions with a view to implementing or applying international agreements or rules on matters covered by this bill.

Similarly, the provision ensures that rules can be laid down on meeting international conventions that relate to matters covered by this bill. The authority also covers environmental and nature conservation matters that must be attended to in connection with this bill, for example on preparation of assessments of the environmental impact on designated international nature conservation areas, determination of terms of nature conservation in connection with licences for offshore activities relating to exploration for or extraction of oil and natural gas or the issue of enforcement notices on environmental and nature conservation matters in connection with offshore activities.

To subsection (3)

*The provision takes into account the fact that developments in diamond exploration in Greenland mean that in future rough diamonds will be extracted in Greenland. To be able to export such rough diamonds with a view to analysis, sale or further processing, Greenland is required to participate in the Kimberly Process Certification Scheme (KPCS).*

*The provision aims to enable the Greenland Government to lay down the necessary rules to ensure that Greenland diamonds can be traded on the world market and that measures can be taken to ensure that conflict diamonds are not imported into Greenland.*

*To section 86*

To subsection (1)

The provision establishes that activities covered by licences granted under this bill must not be performed unless the Greenland Government has approved the activities and any related activities in advance. According to the proposed provision, approval must have been given before buildings, facilities and installations are established as well as before measures are taken in connection with temporary suspension of exploitation activities.

The provision largely corresponds to section 25(1) of the current Mineral Resources Act. It is specified that the provision applies to measures in connection with termination of activities covered by licences under this bill.

Subsection (1) establishes the rule that the various elements of the activities must be approved before implementation. Also in this case, it is crucial that the rule applies to all activities covered by the licence, both in and outside the area which is laid down in the licence to delimit the resource explored or exploited.

According to the provision, the Greenland Government must give its prior approval of the various elements of a mineral resource activity performed pursuant to this bill. It appears from the provision that e.g. the establishment of buildings, facilities and installations must be approved before implementation may be initiated.

The provision specifies that the above applies to all activities covered by the licence, both in and outside the area which is laid down in the licence to delimit the resource explored or exploited.

For approvals pursuant to the proposed provision, a number of terms are laid down for the performance of the activities, including terms concerning technical, safety, health, environmental, resource utilisation and social matters. Moreover, the Greenland Government

may lay down terms on, for example, the duration of the licence, reporting on separate matters and monitoring of matters of environmental importance.

Furthermore, it is proposed that more complex works carried out in connection with activities covered by the bill and which may involve a special risk, including drilling of wells, shaft sinking, driving of drifts, etc., must be approved by the Greenland Government before implementation in each separate case.

To subsection (2)

Pursuant to the provision, the Greenland Government supervises the activities of licensees and other activities covered by the bill.

The provision is also the basis of authority that grants supervisory authority employees access, at all times and on proof of identity, to all parts of activities covered by this bill. This applies to the extent it is necessary for the employees carrying out the supervision to perform their duties. The expression "the supervisory authority employees" has been chosen in favour of "the Greenland Government" to indicate that only a small circle of employees who can establish their identity as supervisory employees can demand access pursuant to this provision. In practice, the supervisory authority will be placed with the Mineral Resource Authority, but see section 95 on the possibility of another delegation of authority tasks.

According to the provision, the Greenland Government may issue an enforcement notice to licensees under this bill. The right to issue enforcement notices is, however, not limited to this, as all those who are liable under this bill may receive an enforcement notice in pursuance of the provision.

To subsection (3)

The provision establishes that licensees and others covered by this bill must submit to the Greenland Government and other authorities any information required about their activities.

The provision imposes a certain duty of disclosure on licensees and others covered by this bill.

The provision covers all information required in the regulatory process in connection with, for example, consideration of an application for a licence under this bill or information to be used for satisfactory supervision of activities under this bill.

In pursuance of the provision, the Greenland Government may order the natural or legal persons covered by the provision to submit information the Greenland Government finds necessary for the Greenland Government's consideration of the matter. The Greenland Government may decide that submission must be in a certain form, including e.g. on CD-ROM or another suitable medium.

To subsection (4)

The provision concerns reporting by licensees to the authorities.

The provision corresponds to section 25(4) of the current Mineral Resources Act.

According to the provision, the licensee must regularly submit reports on the activities performed under this bill and their results. Specified terms on reporting are laid down in the licence, including for instance on form, frequency and contents. Moreover, specified terms are laid down on the confidentiality of reports and results.

It is necessary to lay down rules on confidentiality, as certain information may be characterised as business secrets that may give others an unwarranted advantage if the Greenland Government could be obliged to surrender such information, e.g. in case of a request for access to information.

The provision is in full compliance with the Greenland Parliament Act on Public Access to Documents in Administrative Files which lays down in section 3(1) that "*The Home Rule Government may lay down rules to the effect that specified authorities, fields of responsibility or types of documents, for which the provisions in sections 7-14 will generally mean that a request for access to information can be rejected, must be exempted from the act.*".

The reports in question will generally be covered by sections 12-14 of the Greenland Parliament Act on Public Access to Documents in Administrative Files. The reason that it has been found necessary to include a rule on confidentiality in the bill is that certain information is exchanged with other authorities and sent to Greenland Parliament committees.

To subsection (5)

The provision concerns collection of payment from licensees and others covered by this bill of expenses in connection with the Mineral Resource Authority's consideration.

The provision largely corresponds to section 25(5) of the current Mineral Resources Act. The provision specifies that payment may be charged in the form of fees or reimbursement of expenses.

The payment for consideration by the authorities is planned to be charged on the basis of an hourly rate for the number of hours actually spent on the performance of supervision, including the granting of licences and approvals.

The provision is the basis of authority for the Greenland Government's collection of expenses paid by the Mineral Resource Authority and the Greenland Government in connection with the regulatory process pursuant to this bill. The provision includes expenses for administration, inspection, other consideration by the authorities, official journeys and external advisers, consultants, etc.

All expenses may be charged as a fee or reimbursement of expenses insofar as the payment equals the service provided by the Mineral Resource Authority. It is not the intention that, with authority in this provision, fees or reimbursement of expenses may be charged in excess of the amount that the Mineral Resource Authority has paid or is expected to spend on administration and consideration of the matter concerned. The consideration by the authorities may be paid on the basis of an hourly rate for the number of hours actually spent on the performance of supervision, including the granting of licences and approvals.

Income received or collected pursuant to this provision is not mineral resource revenue under the rules to this effect in section 7 of the Self-Government Act, see section 7(2) paragraph 1, last indent.

*To section 87*

To subsection (1)

The provision establishes that approvals under the Mineral Resources Act do not exempt licensees from obtaining approvals or permits required under other legislation.

If, for example, the establishment and operation of airstrips or other aviation facilities form part of a licensee's activities, the provisions of the Aviation Act must be complied with, and the approvals and permits required by the act must be obtained from the aviation authorities. This likewise applies to rules for air transport laid down by the Civil Aviation Administration. However, insofar as activities of this nature form part of the licensee's activities, they also form part of the overall regulatory process under this Act, and the Greenland Government's approval of related matters is consequently also required.

The proposed provision establishes that a licensee who has been granted a licence or approval under this bill is not exempted from the duty to obtain approvals or permits required under other legislation.

The provision should be seen as a residual clause, as the majority of the matters relevant in relation to the performance of mineral resource activities are governed by this Act. However, some activities may, in addition to a licence under this bill, require a permit or approval under other legislation. This is the case, for example, as regards the bill introduced on exploitation of hydropower resources where a licence is required both under this bill and the Hydropower Resources Act.

The provision establishes that the licensee is responsible for ensuring that the required permits or approvals are obtained. Therefore such matters are not the responsibility of the Greenland Government, nor has the Greenland Government responsibility in the case where it has not given guidance on other legislation.

To subsection (2)

In connection with the licence procedure, the Greenland Government will involve all relevant authorities in a hearing process. To stress that it is a single administrative authority, it has been added to the provision that a licence granted by the Greenland Government exempts the licensee and others from applying for land allotment. The Greenland Government's approval of the contemplated use pursuant to section 19 will also be a permit to use the land in question in the approved manner pursuant to the land use legislation.

A licence under this bill also entitles the licensee to perform the activity in question and activities directly related thereto under trade legislation, insofar as the activity has been approved as part of the overall regulatory process.

*To section 88*

To subsection (1)

The provision concerns the possibility of transferring a licence under the Act. Both direct and indirect transfers of licences require the Greenland Government's approval.

Transfer of licences is not an unusual transaction and is often a natural part of the development from initial prospecting to possible exploitation, often for reasons of financing.

Against this background, approval of a transfer will not be unreasonably withheld. However, it must be ensured that the basis for meeting the obligations resting on the licensee is not weakened or removed by a transfer.

The provision aims to allow the Greenland Government to ensure, prior to any transfer, that the basis for meeting obligations is not weakened by the transfer. In relation to exploitation activities, the intention is also that the Greenland Government should have the opportunity to ensure that the basis for qualified operation of the activities is not weakened.

Moreover, the aim of the provision is to allow the Greenland Government to take into account and stipulate terms concerning financial, fee and tax matters, and to enable the Greenland Government to refuse approvals of transfers or terms of transfers that may have negative consequences for public authorities, including the Greenland Self-Government, in terms of taxes or fees. For example, there may be instances where activities are not transferred with a view to continuing the mineral resource activities, but, on the contrary, mainly with the aim of achieving tax and fee advantages for the transferee, the transferor or them both.

Indirect transfer means any transfer of ownership interests that will affect the controlling interest of the licensee. Any transfer of ownership interests that affects the controlling interest of the original licensee is thus covered by the provision.

To subsection (2)

It appears from the provision that a licence under this bill is exempt from legal proceedings.

The provision largely corresponds to section 27(2) of the current Mineral Resources Act.

The provision should be read in conjunction with subsection (1). Consequently, the provision does not express a position on the possibility of bringing a licence before the courts with a view to having its validity or effects reviewed.

Legal proceedings mean only attachment by creditors. The provision establishes that it is ensured that a creditor cannot take over a licence under this bill by taking recourse to the courts.

#### *To section 89*

The licences may lay down the forms of breach on the part of the licensee that may motivate forfeiture of the licence, also in consideration of the nature and scope of the activities.

#### *To section 90*

The provision concerns the possibility of bringing certain disputes between the licensee and the Greenland Government before a court of arbitration. Licences under this bill may stipulate

that disputes relating to the fulfilment of obligations in the licence may be brought before a court of arbitration whose decision will be final.

The provision corresponds to section 29 of the current Mineral Resources Act.

The provision aims at ensuring that any disputes can be settled quickly and by persons with special expertise in the area. The intention is that under the authority of the provision, specific terms may be laid down in the provision indicating how any arbitration proceedings should be conducted, including terms on the composition, competence, procedure, etc. of the arbitration court.

The decision of the court of arbitration will be final and conclusive.

Decisions which under this bill must be settled by the supervisory authority cannot be subject to arbitration; see section 63 of the Constitution on the right to judicial review of administrative decisions. Consequently, only private law disputes can be subject to a term on arbitration.

#### *To section 91*

To subsection (1)

The provision corresponds to section 30 of the current Mineral Resources Act.

According to the proposed provision, a licence must stipulate the extent to which the licensee's obligations remain upon termination of the licence, including on expiry, abandonment, lapse or withdrawal of the licence.

The provision ensures that on the termination of a licence, a decision has been made on how the obligations of a financial or other nature resting on the licensee should be handled. Such obligations may include the licensee's obligations to pay fees or compensations or fulfil work commitments.

The provision concerns, for example, the situation where an obligation for the licensee to carry out specified exploration activities or other similar obligation stipulated in the licence has not been fulfilled or is only fulfilled in part. In such situation, it will most often – for example when a licence has terminated – not be possible or expedient to seek to hold the licensee liable for fulfilling the obligation in practice, and therefore a term may be stipulated to the effect that in such situation the Greenland Government may require the licensee to pay an amount corresponding to the costs of fulfilling the obligation. The specific circumstances in a situation where an obligation of this nature has not been fulfilled will in special cases dictate that only part of the non-paid cost must be paid, and therefore a possibility has been opened for flexibility in connection with the fixing of the specific amount to be paid.

#### *To section 92*

To subsection (1)

The provision corresponds to some extent to section 31(1) and (2) of the current Mineral Resources Act, but its content has been changed as regards the basis of liability for the liability to pay compensation.

Section 31(1) and (2) of the Mineral Resources Act was introduced on the adoption of the 1991 Mineral Resources Act and has the following wording:

*"31.-(1) A licensee is liable for loss and damages which are caused by activities under the licence according to the enactments and general rules of Danish law regarding liability for loss and damages.*

*(2) It may be stipulated in a licence that in view of the character of the activities, [a] more extreme liability for loss and damages shall apply for the licensee. In this connection, it may be stipulated that the licensee shall compensate damages caused in connection with the activities, even if the cause of damage is accidental. However, the compensation may be reduced or cancelled if the sufferer intentionally or due to gross negligence has been conducive to the damage."*

The proposed provision means that no-fault liability is introduced for any damage caused by activities covered by the licence.

Based on general social considerations and principles of distribution, the enterprises, etc. that are responsible for or carry out activities, etc. according to this bill, and which generally earn financial income from their activities, etc., must pay compensation for the damage they cause as part of such activities.

No-fault liability must also be assumed to have a certain preventive effect, as enterprises are encouraged to take relevant measures, etc. to avoid and limit damage and liability to pay compensation. No-fault liability will also, where this is not already the case, result in important improvement of the aggrieved party's legal position. The introduction of no-fault liability ensures that in future the aggrieved party will be able to carry through claims for compensation also in the event of damage that is due to fortuitous causes.

Finally, rules on no-fault liability do not make allowance for various legal considerations. Under the present state of the law, the aggrieved party must in some cases prove that the party causing the damage has made mistakes or been negligent. Such evidence will often be difficult for the aggrieved party to produce. A no-fault liability scheme makes it superfluous to prove that the party causing the damage has made mistakes or been negligent. This circumstance must be assumed to help the aggrieved party avoid legal proceedings about the liability of the party causing the damage to pay compensation to a wider extent than has been the case so far.

The increased liability should be seen against the background that the commercial activities will typically take place in or near vulnerable Greenland nature that may be irreparably damaged if the activities, etc. are not carried out in compliance with current rules and with utmost care.

In the event of hydrocarbon activities, the provision will not result in increased liability. In the event where general rules on damages apply, the rule will only result in a minor increase in liability. According to the current rules, business operators are considered as professionals who must be expected to be able to avoid and prevent damage and pay compensation for damage as part of their operating expenses. Business operators are thus subject to relatively strict liability, which is to a wide extent no-fault liability.



The proposed provision covers any damage caused by an enterprise or activity. The liability to pay compensation thus includes expenses to carry out preventive and clearing-up measures in the event of environmental damage, including restoration of flora and fauna.

Damage to personal and real property is covered by the liability to pay compensation. It also covers incidental damage, consequential damage and purely financial damage and loss. If, for example, a fisherman's net is damaged by oil pollution, the income that the fisherman loses until the net has been replaced or cleaned will be covered by the liability to pay compensation. Similarly, under the provision, a fisherman may also claim damages for losses as a result of oil pollution having damaged the fish habitats in an area where he usually gets his catch. For hydrocarbons, this already applies to some extent, as the Mineral Resource Authority's model licence for exploration and exploitation of hydrocarbons means that the international convention on civil liability for oil pollution damage applies.

Generally, the principles presently in force in the hydrocarbon area will be able to serve as guidance for understanding and administering the rules in the other areas of the bill.

To subsection (2)

The provision regulates the reduction of compensation in the event of the aggrieved party's own fault.

The provision is an integral part of section 31(2) of the current Mineral Resources Act.

The proposed provision allows for the compensation for damage to be reduced or lapse if the aggrieved party has contributed to the damage. However, only the aggrieved party's intentional or grossly negligent acts or omissions can lead to lapse or reduction of the compensation.

To subsection (3)

The provision gives the Greenland Government the possibility of stipulating in a licence that the licensee's liability must be covered by insurance or another type of security.

Essentially, the provision corresponds to section 31(3) of the current Mineral Resources Act.

The proposed provision implies that the licence may stipulate that the licensee's liability must be covered by insurance or another type of security. Another type of security may, for example, be a parent company guarantee. According to the provision, the Greenland Government may stipulate terms on a combination of insurance and another type of security.

To subsection (4)

The rules of subsections (1)-(3) apply by analogy to activities performed by others under this bill, including licensees under approvals granted pursuant to the bill insofar as their activities are covered by the bill.

To subsection (5)

According to the provision, the Greenland Government may also stipulate in a licence that the liability of contractors, suppliers and service providers to pay compensation must be covered by insurance or another type of security.

*To section 93*

To subsection (1)

The provision concerns the possibility of implementing compulsory acquisition with a view to activities under the Mineral Resources Act.

When, by Act No. 1012 of 19 December 1992, the Greenland Home Rule took over the powers to lay down rules on the authority to initiate and the procedure for compulsory acquisition in fields of responsibility belonging under the Home Rule Authorities, the act was, as stated in the general explanatory notes, changed into a purely procedural act in conformity with the Act on the Procedure for Compulsory Acquisition of Real Property applying in Denmark. This means that in future this bill only describes the procedure to be followed.

The provision aims at ensuring that, to the necessary extent, the Greenland Government can decide to initiate compulsory acquisition of real property with a view to establishing and operating activities under this bill.

It is a condition that it is “to the necessary extent”. Necessary usually means that there are no reasonable alternatives to compulsory acquisition of the property.

The Greenland Government may also decide that compulsory acquisition must be effected in a situation where the property site is not surrendered but where the establishment and operation of activities under this bill will cause so much nuisance or damage to the property, activities, etc. that the intervention may form the basis of compensation under the provision.

In cases where the compulsory acquisition of part of a property will considerably lower the use value of the remainder of the property, the licensee may, if the owner files a claim to this effect, be ordered to acquire the entire property.

To subsection (2)

It appears from the provision that compulsory acquisition according to this bill is subject to the rules of the Greenland Parliament Act on compulsory acquisition.

The Greenland Parliament Act contains detailed provisions on how the authority responsible for compulsory acquisition must act as well as on the procedure for compulsory acquisition, the payment of compensation, etc.

*To section 94*

The provision corresponds to section 31b of the current Mineral Resources Act and must be read in conjunction with the possibility of charging fees to cover expenses incurred by the Mineral Resources Authorities.

The proposed provision re-enacts the existing provision. The provision allows the Greenland Government to fix the size of fees at smaller amounts than the actual expenses incurred or expected to be incurred by the Mineral Resource Authority.

The background to the provision is that the Greenland Government should be able to fix fees in such a way as to make it attractive to mining and oil companies to invest in exploration and exploitation of mineral resources in Greenland.

*To section 95*

The provision is new as compared with the current Mineral Resources Act and corresponds to a wide extent to the provision of section 37 of the Danish Subsoil Act.

The provision regulates the Greenland Government's right to leave tasks to other authorities or private parties to a certain extent. The provision acts as an independent authority to issue executive orders relating to this delegation of powers, and the promulgation and commencement of executive orders will be a precondition for the effect of the delegation in relation to citizens, enterprises, etc.

The proposed provision allows the Greenland Government to decide that supervision must be performed by others than the Mineral Resource Authority. The provision aims at ensuring optimum organisation of the supervision in relation to competencies and resource utilisation. If other authorities can handle the supervision more expediently, it may be decided that it is to be exercised by those authorities.

According to the provision, it is also possible to decide that private enterprises with special expertise in the area may exercise the supervision. If supervision is left to a private enterprise, the Greenland Government may in this connection lay down provisions to the effect that the enterprise has the same rights and obligations as the Mineral Resource Authority in the exercise of the supervisory powers.

Irrespective of whether it is decided that the supervisory powers should be left to a public authority or a private enterprise, the party in question and its employees have the same powers as the supervisory authority and its employees. Thus, pursuant to the provision, the party concerned has the possibility of issuing orders on compliance with this bill and provisions and terms laid down pursuant to this bill. The employees exercising supervision will have access to all parts of the enterprise and its activities to the extent that they are covered by this bill and it is necessary for the exercise of the supervision. If the Greenland Government has laid down detailed provisions on supervision, the authority or enterprise in question will also assume the powers of the Mineral Resource Authority under such provisions if the Greenland Government so decides in pursuance of this provision.

In particular, it may be relevant to leave supervision to private enterprises that have special or good prerequisites for performing the task.

One example of authorities having left tasks and powers under legislation to private enterprises is the classification of ships. In September 2003, an agreement was made between the Danish Maritime Authority and 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 tasks on behalf of the Danish maritime authorities. According to the agreement, the enterprises may issue certificates, demand repairs to be made, carry out inspections, etc. In

this area, the recipients of the classification companies' decisions can only bring complaints about decisions to the courts. There is no administrative right of appeal.

If the Greenland Government decides that supervision must be exercised by another authority or a private enterprise, the Mineral Resource Authority will be tasked with supervising that the private supervision activities in question comply with current rules during the exercise of the supervision.

*To section 96*

The provision deals with the imposition of sanctions.

This bill is generally aimed at commercial activities, for which reason no need has been found for making extensive provisions on sanctioning in the bill. It is assumed that the possibilities of withdrawing licences, etc. will to a wide extent work as a deterrent.

However, it has been found necessary to impose sanctions for certain infringements such as performance of activities in contravention of section 2 and for violation of rules and terms laid down to safeguard the interests mentioned in section 1.

To subsection (1)

The provision states that generally a fine is imposed for performance of activities without a licence, such as prospecting and exploration for and exploitation and export of mineral resources, use of the subsoil in Greenland and establishment and operation of pipelines.

The provision should be seen in the light of the purposes of the bill, for which reason activities need to be performed on the basis of a licence, so that there is full insight into the activities, and it can be ensured that the purposes of the bill are met.

To subsection (2)

The provision authorises the imposition of a fine on those who

(i) Intentionally or due to gross negligence misrepresent or misinform or fail to disclose information to which an authority is entitled under the bill or according to provisions and terms laid down in pursuance of the bill.

The provision should be seen in relation to the fact that to be able to exercise supervision pursuant to this bill, all relevant information needs to be correctly stated.

(ii) Collect or extract minerals contrary to sections 45-47.

The provision should be read in conjunction with subsection (1), and the fact that the entire bill is based on activities being performed according to licences or approvals under this bill, so as to ensure that they are carried out in accordance with the purposes of the bill.

(iii) Fail to deposit excess minerals under section 45(6).

The provision should be seen in relation to the purpose of the bill, i.e. contribution to the entire Greenland society, for which reason it is unacceptable that individual persons withhold resources from society.

(iv) Are in breach of terms granted to safeguard the purposes of section 1.

The provision is to ensure that activities are carried out in accordance with the purposes of the bill. There may be instances where terms have been violated, but where withdrawal of the licence is not commensurate with the violation committed. In such cases, the Greenland Government may instead report the person or the enterprise to the police with a view to bringing an action for violation of terms.

(v) Fail to comply with orders or enforcement notices issued under the bill or provisions laid down in pursuance of the bill.

The provision should be seen in relation to the fact that for the authorities to perform tasks under this act, they need to be able to ensure that orders or enforcement notices issued are complied with. Orders or enforcement notices that are disregarded may thus mean that a fine is imposed on the person or enterprise concerned.

To subsection (3)

The provision establishes that rules laid down pursuant to the bill may dictate that a fine be imposed for violation of such rules.

To subsection (4)

According to this provision, a fine for the violation may also be imposed on legal persons, etc. who violate provisions as mentioned in subsections (1) and (2).

To subsection (5)

The provision establishes that fines imposed accrue to the Greenland treasury.

#### *To section 97*

To subsection (1)

The provision regulates what will happen with illegally collected mineral resources. Insofar as possible they will be confiscated and sold for the benefit of the Greenland treasury. This should be seen against the background that one of the main purposes of the bill is that revenue from the extraction of mineral resources accrues to the Greenland society.

To subsection (2)

According to the proposed provision, mineral resources are sold by the Greenland Government, and the proceeds accrue to the Greenland treasury.

#### *To section 98*

To subsection (1)

The provision concerns the date of commencement of the bill.

It is proposed that the Greenland Parliament Act take effect on 1 January 2010.

To subsection (2)

As a consequence of the taking over of the mineral resource area, Act no. 335 of 6 June 1991 on Mineral Resources, etc. in Greenland (the Mineral Resources Act) as amended, see Consolidating Act no. 368 of 18 June 1998, is repealed.

To subsection (3)

It follows from sections 1, 2 and 28 of the Greenland Self-Government Act that the Self-Government may amend or repeal rules applying to Greenland in fields of responsibility taken over.

The Greenland Self-Government has taken over some of the fields of responsibility covered by Act on the Continental Shelf, see Consolidating Act no. 1001 of 18 November 2005, which has so far applied to Greenland. As a consequence of this, the bill repeals the rules of the Continental Shelf Act on those areas in respect of Greenland.

With the bill, the Greenland Self-Government takes over the mineral resource area and thus parts of the field of responsibility covered by the Act on the Continental Shelf. Consequently, repeal of the relevant parts of the Continental Shelf Act in respect of Greenland is required.

Moreover, the Greenland Home Rule has already taken over the field of responsibility of fisheries in the widest sense of the word, including fishing and exploration of the living organisms mentioned in section 1(2), paragraph (ii), of the Continental Shelf Act. Consequently, it is expedient also to repeal this provision.

The parts of the Continental Shelf Act that cover areas that have already been taken over or will be taken over with the bill, and which are therefore repealed in respect of Greenland pursuant to the provision of section 98(3) are:

- (i) Section 1(1) on ownership of the natural resources of the continental shelf and requirements for licence and permission to exploration or exploitation of such natural resources. The natural resources mentioned in section 1(2), paragraph (i), are covered by the mineral resource area taken over with the bill. The natural resources mentioned in section 1(2), paragraph (ii), are covered by the fisheries area in the widest sense of the words, which, as mentioned above, has already been taken over by the Greenland Home Rule.
- (ii) Section 1(2), paragraph (i), on the definition of the seabed or the mineral and other non-living resources of the seabed and subsoil.
- (iii) Section 1(2), paragraph (ii), on natural resources in the form of living organisms, which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.
- (iv) Section 2(1) on authorities to allow exploration for and extraction of mineral and other non-living resources.
- (v) Section 2(2), first sentence, on natural resources mentioned in section 1(2), paragraph (ii), is repealed in respect of Greenland as fisheries and exploration of the living organisms mentioned in section 1(2), paragraph (ii), as mentioned above, have been taken over by the Greenland Home Rule.
- (vi) Section 2(2), second and third sentences, are repealed as a consequence of the repeal of section 2(2), first sentence.
- (vii) Section 3(2) concerns repealed acts within fields of responsibility taken over by the Greenland Home Rule.

(viii) Section 4(5) on the laying down of rules on safety zones around installations used for exploration or exploitation is repealed, as the bill contains rules on safety zones.

(ix) Section 5(1) is repealed as a consequence of the bill's repeal of section 1.

Overall, the provision implies repeal of the following provisions of the Continental Shelf Act in respect of Greenland: Section 1, section 2, section 3(2), section 4(5) and section 5(1).

Moreover, the bill amends section 6 of the Continental Shelf Act in respect of Greenland. In section 6, first sentence, the reference to section 3(1) is changed to a reference to section 3 as a result of the bill's repeal of section 3(2). According to section 6, first sentence, law otherwise applying to Greenland applies, which includes the rules of the bill. In section 6, second sentence, the reference to the current Mineral Resources Act is changed to a reference to the bill.

The other provisions of the Continental Shelf Act will remain in force without amendments in respect of Greenland.

To subsection (4)

The provision concerns the validity of licences and concessions granted pursuant to the current Mineral Resources Act.

Licences and concessions for prospecting, exploitation or exploration of mineral resources in Greenland that have been granted at the time when the Greenland Parliament Act takes effect remain valid.

However, in future such licences and concessions will be covered by the bill. They will thus be regulated by the rules of the bill and provisions laid down in pursuance thereof.

To subsection (5)

Subsection (2) proposes that the current Act on Mineral Resources, etc. in Greenland be repealed. With a view to ensuring that there will be sufficient time to review and revise current regulations, standard terms, etc. as well as orders and enforcement notices issued pursuant to the current Act, the provision ensures that they remain in force until repealed or replaced by rules laid down in pursuance of this Act. It is expedient that the rules remain in force until new rules in the area have been laid down.