

Greenland Parliament Act no. 11 of 27 November 2018 on Commercial Exploitation of Ice and Water

Part 1

Scope of application

Section 1

(1) The Greenland Parliament Act governs commercial exploitation of ice and water for consumption and related research and sale thereof in Greenland and for export.

(2) The Greenland Parliament Act applies to the territorial land and the territorial sea of Greenland.

(3) The Greenland Parliament Act does not apply to exploitation of ice and water for supply to public consumption in Greenland or to exploitation of ice resources and water resources for hydropower and related research.

Section 2

(1) Commercial exploitation of ice and water and related research may only be performed under a licence granted under the Greenland Parliament Act and in accordance with provisions and licence terms set under the Act.

(2) The Greenland Self-Government may carry out scientific and practical surveys of a general and mapping-related nature in relation to hydrological and glaciological matters. Such surveys may only be performed by the State or by the authorities and institutions of other countries under a licence granted by the Government of Greenland under the Greenland Parliament Act.

(3) Export of ice and water from Greenland may only be performed under a licence granted by the Government of Greenland.

Part 2

Prospecting

Section 3

(1) The Government of Greenland may for a specific area and on specific terms grant a non-exclusive licence for performance of prospecting activities regarding the possibilities of commercial exploitation of ice and water.

(2) The licence may be granted for a period of up to 3 years at a time.

Part 3
Exploitation
Exploitation licence

Section 4

(1) The Government of Greenland may for a specific area and on specific terms grant a licence for commercial exploitation of ice and water.

(2) In an exploitation licence under subsection (1), the Government of Greenland may set terms on the maximum volume of ice and water which may be exploited under the exploitation licence (exploitation volume). However, see sections 6-7.

(3) An exploitation licence may be granted separately for ice and water, respectively.

(4) An exploitation licence shall lapse if exploitation under the licence has not been commenced within a time limit set in the licence.

(5) The time limit shall not be more than 5 years after the grant of the licence. However, see section 16.

(6) Companies performing activities regarding exploitation of ice and water for consumption and sale in Greenland before the entering into force of the Greenland Parliament Act shall be granted a licence by the Government of Greenland without prior application hereof.

Exclusive or non-exclusive exploitation licence

Section 5

(1) An exploitation licence under section 4 for an onshore area or an offshore area may be granted as an exclusive licence or a non-exclusive licence.

(2) An exploitation licence under section 4 may be granted as an exclusive licence:

1) For a specific area. However, see subsection (3) and section 9(4).

2) For a specific ice resource or water resource. However, see subsection (3) and section 9(4).

3) For a specific exploitation volume from a specific area or of a specific ice resource or water resource. However, see subsection (3) and section 9(5).

(3) A licensee may submit an application to the Government of Greenland requesting that an exploitation licence under section 4 is changed from a non-exclusive exploitation licence to an exclusive exploitation licence or the other way around. The Government of Greenland shall then decide thereon, taking other affected rights into consideration.

(4) Any amendment of an exploitation licence under subsection (3) shall be granted in an addendum to the exploitation licence.

Change of the exploitation volume

Section 6

(1) A licensee may submit an application to the Government of Greenland requesting that an exploitation volume under an exploitation licence, see section 4(2), is changed.

(2) A decision on changing an exploitation volume under an exploitation licence shall be made on the

basis of the following matters in particular:

- 1) The volumes of ice and water exploited in each year during the licence period and in particular the last year, and the licensee's reporting thereon, see section 22(2).
- 2) The volumes of ice and water which the licensee is likely to exploit for the remaining part of the licence period and the licensee's approved exploitation plan therefor.
- (3) Any change of an exploitation volume shall be made in an addendum to the exploitation licence.

Public supply obligation

Section 7

(1) The supply of water to local consumers shall take priority over licensees under exploitation licences under the Greenland Parliament Act.

(2) If there is any unexploited volume of ice or water left when all local utility companies have fulfilled their needs in full, see subsection (1), the remaining volume shall be distributed proportionately between the licensees relative to their exploitation licence under the Greenland Parliament Act.

Exploitation licence for surplus water

Section 8

(1) The Government of Greenland may grant a licence for commercial exploitation of water to a company which has entered into an agreement on the purchase of surplus water from a public utility company.

(2) An exploitation licence under subsection (1) shall only entitle a licensee to exploit surplus water if the licensee has entered into an agreement with a public utility company on the purchase of surplus water from the utility company and the exploitation is performed on the basis of and in accordance with the agreement.

(3) An agreement on a licensee's purchase of surplus water from a public utility company as mentioned in subsection (1) shall be entered into and fulfilled with due regard to the public utility company's supply obligation and other obligations under relevant legislation. The water purchase agreement shall include terms thereon. Furthermore, the water purchase agreement may include terms on, among other matters, the supply of water, including on the supply of specific minimum and maximum volumes of water and water of a specific quality, and on the amount charged for the supply of water. The public utility company may enter into and fulfil a water purchase agreement on such and other terms based on, among other matters, the utility company's commercial interests and commercial situation.

(4) The provisions in sections 4-7 shall also apply to an exploitation licence under subsection (1), unless otherwise stated in subsections (1)-(3).

Licensee

Section 9

(1) An exploitation licence under section 4 or 8 may only be granted to a public limited liability company (in Danish: *aktieselskab*) or a private limited liability company (in Danish: *anpartsselskab*) which has its registered office located in Greenland, which is only performing activities under a licence granted under the Greenland Parliament Act and which is not jointly taxed with other companies. However, see subsection (2).

(2) An exploitation licence under section 4 or 8 may be granted to a public limited liability company (in Danish: *aktieselskab*) or a private limited liability company (in Danish: *anpartsselskab*) which has its registered office located in Greenland, which is performing both activities under a licence granted under the Greenland Parliament Act and other activities and which may be jointly taxed with other companies under relevant legislation. Such exploitation licence shall set terms to the effect that section 25(3) shall not apply to the licensee under the licence.

(3) The licensee under the exploitation licence shall have the necessary technical and professional ability and financial ability for performing the exploitation activities and the other activities comprised by the licence.

(4) An exploitation licence under section 4 shall only be granted as an exclusive licence for an area or a specific ice resource or water resource if the exploitation potential is expected to be exploited by the licensee.

(5) An exploitation licence under section 4 or 8 shall not be granted as an exclusive licence for an exploitation volume, see section 4(2), which significantly exceeds the licensee's needs.

Amendment of licence based on public supply obligation

Section 10

(1) Within an onshore area comprised by an exclusive licence under section 4, the Government of Greenland may grant a licence to another party for exploitation of ice and water for supply for consumption in inhabited areas.

(2) The grant of a licence under subsection (1) shall not entitle the licensee under an exclusive licence under section 5 to compensation for any damage or loss or other claims or remedies against the Government of Greenland or the other party.

Licence period

Section 11

(1) An exploitation licence under section 4 or 8 may be granted for a licence period of up to 20 years.

(2) The Government of Greenland may extend the licence period stated in subsection (1) on specific terms. However, the total licence period shall not exceed 30 years.

(3) Any extension of the licence period shall be set in an addendum to the exploitation licence.

Grant of exploitation licence

Section 12

(1) The Government of Greenland may grant an exploitation licence under section 4 or 8 in 1 of the manners stated in subsections (2)-(4).

(2) An exploitation licence may be granted upon an application thereon.

(3) An exploitation licence may be granted upon a general public invitation to apply for the grant of 1 or more exploitation licences (a licensing round). The Government of Greenland shall publish a notice of the invitation for applications at least 90 days before expiry of the deadline for application. The notice shall be published on the website for the Government of Greenland and in another manner.

(4) The Government of Greenland may set provisions to the effect that a specific area for a specific period shall be open for the grant of 1 or more exploitation licences upon application thereon (an open door procedure). The Government of Greenland shall publish a notice on the open door procedure on the website for the Government of Greenland and in another manner. An application for the grant of an exploitation licence under the open door procedure may at the earliest be submitted 90 days after the publication of the notice on the open door procedure.

(5) The Government of Greenland may decide not to grant an exploitation licence, notwithstanding that the Government of Greenland has received an application thereon which has been submitted in accordance with 1 of the procedures mentioned in subsections (2)-(4).

Section 13

The Government of Greenland may set specific provisions on the contents and submission of an exploitation licence and on the grant of an exploitation licence.

Part 4

Exploitation plan

Section 14

(1) The licensee under an exploitation licence shall prepare an exploitation plan for all exploitation activities. Before the licensee commences exploitation, establishes facilities in relation thereto or carries out other measures for the purpose thereof, the exploitation plan shall be approved by the Government of Greenland. The Government of Greenland may set terms in an approval.

(2) In addition to the matters stated in subsection (1), the exploitation plan shall include information on the following matters:

- 1) Information on and documentation of the quality of the ice products and the water products when they are sold to third parties and how the licensee will ensure the quality of the products.
- 2) The licensee company's financial ability, including its financial soundness and liquidity in relation to the exploitation activities.
- 3) The funding of the exploitation activities.

- 4) The possibility of performing the exploitation activities with a profit.
- 5) An assessment of the environmental matters regarding the exploitation activities.
- 6) An assessment of the use of Greenland and foreign workers and suppliers of goods and services in relation to the exploitation activities.

Part 5

Closure plan and temporary suspension of exploitation activities

Closure plan

Section 15

(1) In relation to submission of an application for approval of an exploitation plan under section 14, the licensee shall submit an application for approval of a closure plan to the Government of Greenland. The closure plan shall state:

- 1) The activities to be performed by the licensee on termination of the activities in relation to clean-up and removal of facilities established under the licence.
- 2) If facilities, which for environmental or safety reasons require maintenance after termination of the activities, is planned to be left behind in the area, the closure plan shall state how the said maintenance will be carried out.
- 3) How the implementation of the plan is financially secured.

(2) The closure plan shall be approved by the Government of Greenland before commencement of exploitation, see section 14. The closure plan shall be updated on a regular basis and amended in case of substantial changes in the exploitation activities or other matters of importance to the closure plan or its implementation. Any amendment of the closure plan is subject to the approval of the Government of Greenland.

(3) If the activities under an exploitation licence have terminated, the Government of Greenland may order the licensee to implement the closure plan.

Temporary suspension of activities

Section 16

(1) Any temporary suspension of the performance of exploitation activities for a period of time with a view to subsequent resumption of the activities is subject to the approval of the Government of Greenland.

(2) In an approval, the Government of Greenland sets, among other matters, terms to ensure that facilities are maintained while the activities are suspended, and that the closure plan mentioned in section 15 can be implemented later if the activities are not resumed. An approval may be granted for up to 2 years at a time.

(3) If a temporary suspension under subsection (1) has lasted 2 years or more, or if the terms for the approval of the suspension are not complied with, the Government of Greenland may order the licensee to implement the closure plan, see section 15.

Part 6

Setting provisions and terms and administrative work etc.

Setting terms

Section 17

(1) In a licence under section 3, 4 or 8 and in an approval under section 14, the Government of Greenland may set terms on technical, safety, environmental, area and resource matters.

(2) In a licence under section 3, 4 or 8 and in an approval under section 14, the Government of Greenland may set terms to ensure that the licensee fulfils its obligations under the Greenland Parliament Act, the licence and approvals, including terms on the provision of security.

(3) The Government of Greenland may set provisions on quality and health-related matters in relation to exploited ice and water which will or may be used for drinking, cooking, food preparation or other household purposes etc. The Government of Greenland may also set terms to that effect in an exploitation licence.

(4) The Government of Greenland may set provisions on control and the licensee's self-control of quality and health-related matters in relation to exploited ice and water which will or may be used for drinking, cooking, food preparation or other household purposes etc. The Government of Greenland may also set terms to that effect in an exploitation licence.

Section 18

(1) In a licence under section 3, 4 or 8, the Government of Greenland sets terms to the effect that the licensee shall continuously carry out clean-up in the licence area and other affected areas.

(2) The Government of Greenland also sets terms to the effect that on termination of the activities, the licensee shall carry out clean-up in the licence area and other affected areas and remove facilities established under the licence in accordance with the closure plan, see section 15.

(3) In a licence under section 3, 4 or 8, the Government of Greenland may set terms to ensure that the licensee fulfils its obligations under the licence, including the obligations stated in subsection (1). The Government of Greenland may, among other matters, set terms on the provision of full or partial security.

Section 19

In a licence under section 3, 4 or 8, the Government of Greenland sets terms to the effect that other parties than the licensee may perform exploitation of the ice resources and the water resources in the licence area for own consumption.

Section 20

In a licence under section 3, 4 or 8, the Government of Greenland shall set terms on the circumstances under which the Government of Greenland may revoke the licence and on the extent to which the licensee's obligations shall survive termination of the licence.

Section 21

In a licence under section 3, 4 or 8, the Government of Greenland may set terms to the effect that a dispute between the Government of Greenland and the licensee in relation to the licence or activities or matters regarding the licence shall or may be brought before and decided by an arbitration tribunal. In the licence, the Government of Greenland may also set terms on establishment and composition of the arbitration tribunal, on choice of law and on arbitration proceedings.

Supervision and orders

Section 22

(1) The Government of Greenland supervises the activities of licensees and third parties and matters comprised by the Greenland Parliament Act. Supervision also comprises control as stated in section 17.

(2) The Government of Greenland may make a decision, including issue orders, for compliance with the Greenland Parliament Act and further provisions and terms set under the Greenland Parliament Act and for fulfilment of obligations thereunder. Orders may be issued to licensees and other parties comprised by the Greenland Parliament Act.

(3) The Government of Greenland may to a specified extent have tasks comprised by the Greenland Parliament Act performed by private parties or authorities or institutions of other countries which perform supervision, control or information activities regarding quality and health-related matters within the scope of application of the Greenland Parliament Act.

(4) Against due evidence of authority and without a court order, the employees of the supervisory authority and other persons with specific authorisation under subsection (1) shall at any time have access to all parts of the company and the activities to the extent required for the performance of the supervision.

Section 23

(1) If a licensee or any other party comprised by the Greenland Parliament Act fails to comply with an order issued under section 22(2), including the activities and measures mentioned in section 17, the Government of Greenland may:

- 1) Have such activities and measures carried out at the licensee's or the other party's expense and risk.
- 2) Issue an order to the effect that the licensee's or the other party's activities under the licence or under the Greenland Parliament Act shall be suspended immediately or within a specific time limit and that the activities may not be performed until the order has been complied with.
- 3) Issue an order to the effect that commercially exploited ice and water shall be marked, seized or destroyed and that the licensee shall withdraw exploited ice and water from downstream markets, or that the licensee shall temporarily suspend the exploitation of ice and water or sale.

(2) Orders issued under subsection (1) shall not entitle the licensee to compensation for any damage or loss or other claims or remedies against the Government of Greenland.

Duty to report and confidentiality

Section 24

(1) Licensees and other parties comprised by the Greenland Parliament Act shall provide all information and submit all documents required for case processing and other administrative work regarding their activities comprised by the Greenland Parliament Act. For the purpose of the case processing and other administrative work under the Greenland Parliament Act, the Government of Greenland may order licensees and other parties to provide information and documents in the manner and in the form deemed necessary by the Government of Greenland.

(2) Each year, a licensee shall submit 1 or more reports on the activities performed and the results thereof, including on the environmental impact of the activities, to the Government of Greenland. Terms on the licensee's provision of information and submission of reports to the Government of Greenland shall be set in a licence.

(3) The Government of Greenland may set terms to the effect or decide that a licensee shall ensure that its suppliers of goods and services provide information and documents to the Government of Greenland regarding activities and export under the licence or the Greenland Parliament Act in general.

(4) The Government of Greenland may set terms to the effect or decide that a licensee's suppliers of goods and services shall provide information and documents to the Government of Greenland regarding activities and export under the licence or the Greenland Parliament Act in general.

(5) When a party and the Government of Greenland would like to discuss or are discussing matters regarding the grant of a possible licence to the party or the party's possible submission of an application for the grant of a licence, the Government of Greenland may decide on a duty of confidentiality regarding information and documents. If so decided by the Government of Greenland, the duty of confidentiality shall only comprise information and documents prepared, delivered or received by the Government of Greenland in relation to initial discussions on the said matters. The duty of confidentiality shall not comprise any subsequent discussions, including in relation to submission of a licence application. The duty of confidentiality shall expire 3 years after the end of the party's initial discussions with the Government of Greenland.

Part 7

Royalties, fees and reimbursement of administrative costs and expenses etc.

Section 25

(1) In an exploitation licence under section 4 or 8, the Government of Greenland may set terms to the effect that the licensee shall pay royalty to the Greenland Self-Government calculated on the basis of:

- 1) the size of the area comprised by the exploitation licence (area royalty),
- 2) the volume or value of exploited ice and water etc. (output royalty) or
- 3) the share of the economic profit from the activities under the exploitation licence (profit royalty).

(2) If the Government of Greenland sets terms to the effect that the licensee shall pay a royalty to the Greenland Self-Government under subsection (1), the licensee may be granted an exemption from the obligation to pay the royalty for a specific period of time after the grant of the licence.

(3) If the Government of Greenland sets terms to the effect that the licensee shall pay a royalty to the Greenland Self-Government under subsection (1), the licensee may be granted full or partial exemption

from the obligation to pay direct taxes and indirect taxes under the relevant legislation regarding the activities performed under the licence during a specific period of time from the grant of the licence. However, see section 4.

(4) Subsection (3) shall not apply to a licensee under an exploitation licence comprised by section 9(2).

(5) Before granting any tax exemption under subsection (3), the Government of Greenland shall obtain authorisation to do so by including a note to this effect on the Finance Act.

Fees and reimbursement of costs and expenses

Section 26

(1) Licensees and other parties comprised by the Greenland Parliament Act shall pay any costs and expenses incurred in relation to case processing and other administrative work under the Greenland Parliament Act. The amount payable may be collected as fees or as reimbursement of costs and expenses.

(2) The Government of Greenland may set more specific provisions on the payment of fees and reimbursement of costs and expenses to cover in whole or in part costs and expenses incurred in relation to the case processing and other administrative work under the Greenland Parliament Act.

Part 8

Transfer of licence, liability in damages and submission of decisions before the courts, etc.

Transfer of licence

Section 27

(1) Any transfer, whether direct or indirect, of a licence under section 3, 4 or 8 is subject to approval from the Government of Greenland.

(2) A licence under section 3, 4 or 8 may not be made the subject of enforcement proceedings.

Liability in damages

Section 28

(1) A licensee is liable for any damage caused in connection with activities under the licence even if the cause of damage is accidental.

(2) The damages under subsection (1) above may be reduced or lapse if the injured party intentionally or due to gross negligence contributed to the damage.

(3) Terms may be laid down in a licence to the effect that the licensee's liability in damages must be covered by insurance or that other security must be provided.

(4) The provisions in subsections (1)-(3) apply correspondingly to activities performed by third parties comprised by the Greenland Parliament Act, including licensees under approvals granted under the Greenland Parliament Act, in so far as their activities are comprised by the Greenland Parliament Act.

(5) The Government of Greenland may set terms in a licence to the effect that a licensee's suppliers of goods and services must be covered by insurance or that other security must be provided which covers

the supplier's liability in damages for activities under the licence.

Submission before the courts

Section 29

(1) A decision on matters comprised by the Greenland Parliament Act may be brought before the courts within a period of one year. However, see section 31.

(2) An appeal against a decision brought before the courts will not have a suspensive effect unless otherwise decided by the Government of Greenland.

(3) A decision appealed to the courts must be brought before the Court of Greenland as the court of first instance.

(4) The provisions in subsections (1)-(3) apply correspondingly to a decision concerning a licence, if, under the licence, a dispute concerning the decision shall be brought before a arbitration tribunal. Such decision may only be brought before the arbitration tribunal within a time-limit of one year.

Part 9

Consultation

Section 30

(1) If an application for the grant of a licence under section 3, 4 or 8 comprises an area in a municipality, the Government of Greenland will consult the municipality before making a decision in the case.

(2) If an application for the grant of a licence comprises an area outside the scope of the municipalites and within the authority of a local council, the Government of Greenland will consult the local council before making a decision in the case.

Part 10

Compulsory sale

Section 31

The Government of Greenland is authorised in a compulsory sale to purchase real property for licensees and the Government of Greenland to the extent required to perform activities comprised by the Greenland Parliament Act. The compulsory sale will be effected in accordance with the Greenland Parliament Act on Compulsory Sale.

Part 11

Other legislation

Section 32

(1) The Greenland Parliament Regulation on licence to export Greenland products does not apply to the export of ice and water under the Greenland Parliament Act.

(2) The Greenland Parliament Act on Open Administration does not apply to reports submitted to the Government of Greenland concerning activities comprised by the Greenland Parliament Act.

(3) The legislation governing the carriage by sea of goods to, from and in Greenland does not apply to the carriage by sea in connection with activities under a licence granted under the Greenland Parliament Act.

Part 12

Penalties

Section 33

(1) Any violation of sections 2(1) and (2), 2nd sentence, 24(1), 1st sentence, and (2), 1st. sentence, and 28(1) may result in measures in the form of a fine under the provisions of the Criminal Code for Greenland.

(2) Any violation of terms laid down under sections 14(1), 2nd sentence, 15(2), 1st-2nd sentences, 16(2), 17, 18, 24(1), 2nd sentence, and subsection (2), 2nd sentence, and subsections (3) and (4) may result in measures in the form of a fine under the provisions of the Criminal Code for Greenland.

(3) Any violation of orders issued pursuant to sections 22(2) and 23(1) may result in measures in the form of a fine under the provisions of the Criminal Code for Greenland.

(4) For regulations issued under section 13, measures may be imposed in the form of a fine under the provisions of the Criminal Code for Greenland.

(5) Where the Greenland Parliament Act or regulations issued under the Greenland Parliament Act provide for a fine to be imposed, such fine may be imposed on a legal entity under the provisions of the Criminal Code for Greenland.

(6) Fines imposed under the Greenland Parliament Act or provisions laid down in pursuance of the Greenland Parliament Act will accrue to the Greenland Treasury.

Part 13

Entry into force, repeal and transitional provisions

Section 34

(1) The Greenland Parliament Act enters into force on 1 January 2019.

(2) Greenland Parliament Act no. 7 of 31 May 2001 on the exploitation of ice and water for export is repealed at the same time.

Section 35

(1) Licences to prospect for or exploit ice and water for export which were already granted when the Greenland Parliament Act entered into force will remain valid.

(2) The Greenland Parliament Act also applies to such licences, licensees under such licences as well as activities comprised by the Greenland Parliament Act no. 7 of 31 May 2001 on the exploitation of ice and water for export at the time of entry into force of the Greenland Parliament Act.

(3) The Greenland Parliament Act further applies to activities, including the exploitation of ice and

water for export, comprised by the Greenland Parliament Act no. 7 of 31 May 2001 on the exploitation of ice and water for export and performed before the entry into force of the Greenland Parliament Act.

(4) The Greenland Parliament Act further applies to decisions made under Greenland Parliament Act no. 7 of 31 May 2001 on the exploitation of ice and water for export before the entry into force of the Greenland Parliament Act, provided, however, that time begins to run at the time of entry into force of the Greenland Parliament Act.

(5) Cases concerning applications for licences to activities as mentioned in subsection 2(1) which are pending at the time of entry into force of the Greenland Parliament Act will proceed under the Greenland Government Act.

Section 36

Delegated legislation laid down in pursuance of Greenland Parliament Act no. 7 of 31 May 2001 on the exploitation of ice and water for export at the time of entry into force of the Greenland Parliament Act will remain in force with the amendments following from the Greenland Parliament Act, until such delegated legislation is repealed.

The Self-Government of Greenland, 27 November 2018

Kim Kielsen