

NAALAKKERSUISUT
GOVERNMENT OF GREENLAND



GREENLANDIC ICE AND WATER

– A legal framework



Greenlandic ice and water

– A legal framework

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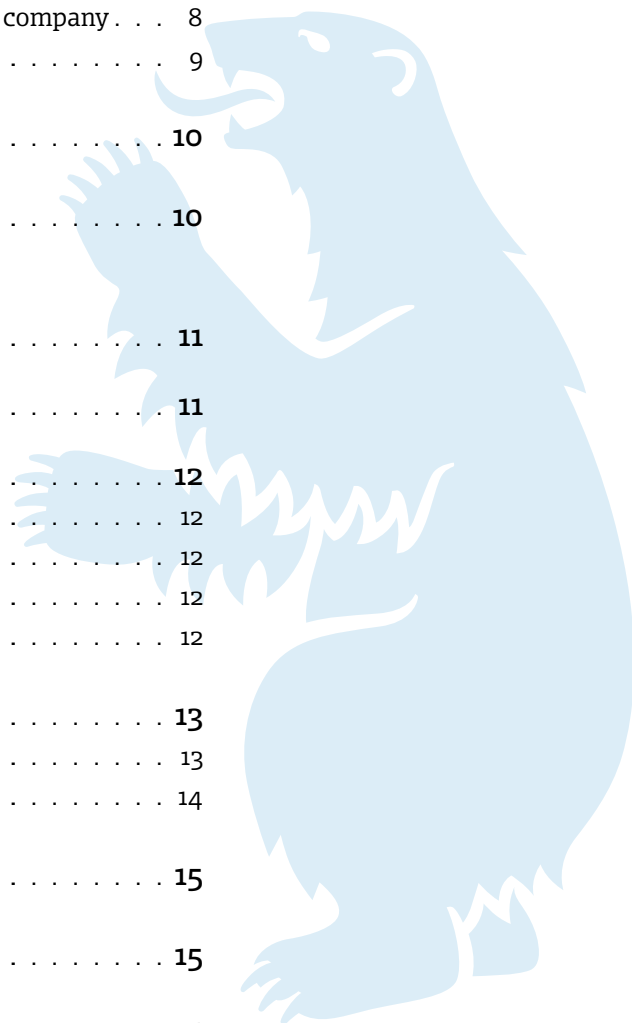
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1. Greenland's strategy for ice and water

The Greenlandic ice sheet contains 10 per cent of the world's fresh water resources. The demand for drinking water is generally increasing globally, and so is the world market for production and trade of drinking water. In 2015, the increase in global consumption of bottled water was largest in China, United States of America and India.

Greenland's strategy for export of ice and water covers the period 2017-2018. The strategy is built around three main tracks:

1. The first track is about mapping suitable – and relevant – meltwater deposits with a high uniform quality. These locations are identified on the basis of various selected criteria's that take into account special matters and conditions in Greenland, including geography and infrastructure.
2. The second track concerns the possible adjustments of the tax and royalty level for the development and increase of commercial exploitation and export of ice and water from Greenland. This work is based on a benchmark analysis of the tax and royalty models applied in various peer countries as well as scenario calculations of possible models.
3. The third track is focused on the optimisation potential of the legislative framework within the ice and water area. One of the recommendations set out in the strategy is the introduction of licensing rounds as a supplement to the existing application procedures, which are generally based on unsolicited applications and the first-come first-served principle.

The strategy describes main developments in the international ice and water market and the Greenlandic regulation and licence terms, which promote and support prospecting as well as exploitation of ice and/or water for export and investments in such activities in Greenland.

The strategy provides information on Greenland's unique ice and water resources. The Government of Greenland has in co-operation with the Geological Survey of Denmark and Greenland (GEUS) analysed and mapped out multiples ice and water resources in Greenland. These analyses have established that Greenland has unique ice and water resources with a very high degree of purity and that Greenland has excellent conditions for the commercial exploitation of ice and water. The Government of Greenland will continue to analyse ice and water resources and map out new areas to further promote commercial exploitation and export of ice and/or water.

The strategy is a part of the Government of Greenland's activities and measures to increase and develop commercial exploitation and export of ice and water from Greenland.



2. Act on commercial exploitation of ice and water

Activities concerning the commercial exploitation of ice and water in Greenland are regulated by the Greenlandic Parliament Act no. 11 of 27 November 2018 on commercial exploitation of ice and water

The act is a framework regulation, which sets general provisions and principles for exploitation of ice and water from Greenland and administration of such activities.

The act is based on a system for mandatory licences, which may be granted by the Government of Greenland.

Prospecting of ice and/or water resources may only be performed under a prospecting licence. Exploitation of ice and water may only be performed under an exploitation licence.

The Government of Greenland may generally set specific terms in a licence on relevant matters, such as performance of activities under the licence and the payment of royalty to the Government of Greenland.

The act and the licence system in Greenland is easy to use for companies which apply for licences or are licensees under licences.



3. Prospecting licence for ice and/or water

The Government of Greenland may grant a prospecting licence for investigation studies of ice and/or water.

A licensee under a prospecting licence may perform detailed field surveys and investigations in the area covered by the licence.

A prospecting licence is not exclusive. It does not exclude that the Government of Greenland grants licences

covering fully or partially the same area to other parties. Nor does the granting of a prospecting licence entail any legal right to subsequently be granted an exploitation licence for the same area. However, the licensee may at any time apply for an exploitation licence.

A prospecting licence is granted for a period of up to 3 years at a time.



4. Licence for exploitation of ice and/or water

The Government of Greenland may grant two types of licences for exploitation of ice and/or water. The first type is a licence for exploitation of ice and/or water resources. The second type is a licence for exploitation of surplus water from a public utility company.

A licence for exploitation is generally also a licence for sales to the home market of exploited ice and/or water and export thereof to foreign countries.

4.1 Licence for exploitation of ice and/or water resources

The Government of Greenland may grant a licence for exploitation of ice and/or water resources.

The Government of Greenland may grant a non-exclusive licence or an exclusive licence which covers land areas to perform exploitation of specific ice and/or water resources in the licence area. The Government of Greenland may also grant a non-exclusive licence or an exclusive licence which covers sea areas in the Greenlandic territorial sea.

A non-exclusive licence for exploitation means that it is possible to grant other licences for exploitation of ice and/or water resources in the same area. An exclusive licence for exploitation means that it generally is not possible to grant other licences for exploitation of ice and/or water resources in the same area.

The Government of Greenland may furthermore grant an exclusive licence for a specific ice and/or water resource within a licence area. The Government of Greenland may also grant an exclusive licence for a set quantity (volume) of ice and/or water from a specific area or a specific ice and/or water resource.

Exploitation activities under a licence generally include all activities performed by or on behalf of the licensee, including the establishment of an exploitation plant, infrastructure and plants for transport and storage of

ice or water and any plant for bottling of water, as well as other activities related to the exploitation, sale and export.

A licence for exploitation is granted for a period of up to 20 years at a time. The licensee may apply for an extension of the licence period. Upon an application from the licensee, the Government of Greenland may grant an extension of the licence period. The Government of Greenland may grant an extension of a licence on the same or amended licence terms.

4.2 Licence for exploitation of water from a public utility company

The Government of Greenland may grant a non-exclusive licence or an exclusive licence for exploitation of surplus water from a public utility company.

The Greenlandic public authorities must safeguard public water utilities and the access to water for the local civil society. In this regard, the Greenlandic authorities must, among others, comply with the Greenlandic Parliament Act no. 13 of 6 November 1997 on the Greenland Home Rule takeover of electricity and water supply for settlements.

A licence for exploitation of surplus water from a public utility company is conditioned on the term that the licence applicant has concluded a valid and binding contract on purchase of surplus water from the public utility company.

The contract may set terms on the purchase price of the water and any use of existing installations, facilities and pipelines, including any amount to be paid for such use.

A contract on exploitation of surplus water must be in accordance with the obligation of the Government of Greenland to safeguard public water utilities and the access to water for the local civil society.

4.3 Plans and approval of plans

A licensee under an exploitation licence must prepare a plan for all activities (an exploitation plan) and a plan for measures and activities in relation to the termination of exploitation activities and the restoration of the licence area (a closure plan). The plans must comprise all relevant activities and matters, including the establishment and operation of plants, installations and equipment. The licensee may not commence the performance of activities under the licence before the licensee has obtained an approval of the plans from the Government of Greenland.

The exploitation plan shall contain detailed information on all relevant matters in relation to the project, including a description of the project, the quality of the ice and/or water products and how the licensee will ensure the product quality.

The closure plan shall contain information on the planned measures and activities in relation to the termination of exploitation activities and the restoration of the licence area. The plan shall include detailed information on the planned removal of plants, installations and other equipment established or used in relation to the exploitation activities. The licensee shall also provide information on the economic viability of the fulfilment of the closure plan.

5. Terms in licence or plan

The Government of Greenland may set relevant terms in a prospecting licence or exploitation licence and in an approval of a plan for activities under a licence.

The terms in a licence and in an approval of a plan may for example concern performance of activities, matters regarding prospecting of ice and/or water resources or exploitation of ice and/or water, technical matters or matters regarding health, safety and the environment. The Government of Greenland may also set terms requiring the licensee to submit reports on the performed activities and the results thereof.

Furthermore, the Government of Greenland may set

terms regarding the licensee's obligation in relation to termination of activities under the licence, including terms relating to the clean-up and removal of facilities, installations and other equipment and restoration of the licence area. Such terms and conditions may also include terms on financial security for the fulfilment of the licensee's obligations.

Furthermore, the Government of Greenland may set terms under which the licensee must pay royalties to the Government of Greenland.

Model licences and model approvals of plans are available at the website www.businessingreenland.gl.

6. Transfer of a licence

A licensee may transfer a licence to a third party. However, the transfer of a licence to a third party is subject to an approval by the Government of Greenland. This

also applies to any indirect transfer of a licence, for example by the transfer between two parties of the ownership of the total share capital of the licensee company.

7. Supervision of activities of the licensee and executive orders

The Government of Greenland supervises the activities of the licensee and other parties under the act, provisions set under the act and the licence.

The Government of Greenland may issue executive orders on any relevant matters relating to licences or activities under the act.

8. Dispute resolution

A licence may include terms stating that a dispute between the Government of Greenland and the licensee, as to whether the terms of the licence have been complied with, must be brought before a court of arbitration. A licence may also include specific terms on the arbitration, including terms on the composition of the arbitration tribunal, choice of law and arbitration procedures.

If a licence does not include an arbitration clause, the dispute must be brought before the courts of law with jurisdiction in Greenland. The same applies to other disputes between the Government of Greenland and the licensee.

9. Getting started

9.1 Who can apply for a licence

Both natural persons and legal entities can apply for a prospecting licence under the act on commercial exploitation of ice and water.

To qualify for a licence for exploitation under the act, the applicant must be a public limited company or a private limited company* and have its registered office in Greenland. If the applicant only performs activities under a granted licence and is not taxed jointly with other companies, the applicant may in some cases apply for an exemption for payments of taxes and royalties in a set period of time from the granting of a licence.

All applicants for a licence for exploitation must have the necessary expertise and financial capacity to perform the exploitation and other activities under the licence.

9.2 How to apply for a licence

To obtain a prospecting licence or exploitation licence for a specific area under the act, the applicant must send an application to the Ministry of Industry, Energy, Research and Labour. Contact information for the ministry is available at the website of the Government of Greenland: www.naalakkersuisut.gl.

The Ministry of Industry, Energy, Research and Labour will assist a licensee in its work to obtain the necessary permits and approvals from other authorities to a wide extent.

9.3 Submission of documents and information

A party applying for a prospecting licence or an exploitation licence must provide the documents and the information which the Government of Greenland considers are relevant in order to process and assess the licence application.

The required information may include information on the party's expertise and financial capacity, planned activities under the licence applied for, an assessment of financial matters in relation to the planned activities, and assessments of other relevant matters, including environmental and employment matters.

9.4 Initial discussion and confidentiality

A party interested in applying for a prospecting licence or an exploitation licence is encouraged to contact the Ministry of Industry, Energy, Research and Labour for an initial discussion of any relevant matters and for further information.

All information and documents prepared, delivered or received by the Government of Greenland in relation to the initial discussions regarding the applicant submissions of the application for the granting of a licence are treated as confidential by the Government of Greenland for 3 years from the date when the information or documents were prepared, delivered or received by the Government of Greenland.

The confidentiality does not comprise any subsequent discussions, including the submission of the application for the granting of a licence.

After the period of confidentiality, the public access to information and documents is regulated by the general rules thereon.

* Entrepreneurial limited company included



10. Work and residence permits

10.1 Work permits and residence permit

Foreign nationals who wish to work in Greenland, must apply for a residence and work permit at the Danish Agency for International Recruitment and Integration (SIRI). The following document must be submitted to SIRI:

1. Application form (GL1).
2. Copy of all pages of passport.
3. Copy of employment contract.
4. Educational documents.
5. Proof of authorisation (if required).
6. Permission to employ foreign labour in the job position (municipality permit).

SIRI will contact the Government of Greenland and process the application based on an approval from the Government of Greenland, stating that the applicants' salary and terms of employment correspond to Greenlandic standards.

Nationals from the Nordic states, that is Denmark, Faroe Islands, Norway, Sweden, Finland and Iceland, may be employed and work in Greenland without a residence permit and a work permit. Other foreign nationals are required to have a residence permit and a work permit to work in Greenland. Please see section 10.2 on municipality permits.

An application for a work permit must be submitted by the employee and not by the employer. An application for a residence permit and a work permit can be submitted to the Danish Agency for International Recruitment and Integration (SIRI) at the website www.newindenmark.dk or to the local police in Greenland if the person applying is in Greenland. A residence permit and work permit is granted for one year at a time.

Some foreign nationals staying shorter than 90 days (short term visit) and performing certain activities are exempt from work permits. The following persons are among other exempted from work permits:

- A researcher or a lecturer who has been invited to teach or lecture in Greenland.
- A fitter, consultant or instructor hired to fit, install, inspect or repair machines, equipment, computer programmes or similar items ("fitter rule").

However, a person must still hold a visa if the person is a national of a country whose citizens are required to have a visa to visit Greenland. These requirements are identical to the requirements of Denmark, and a list of countries with visa requirement is available at the following link: <https://www.newindenmark.dk>.

There is no processing fee for the application for a work permit, neither at the municipality (please see section 10.2 on municipality permits) nor at the Danish Agency for International Recruitment and Integration (SIRI).

The Danish Parliament and the Danish Government have competence in the area of foreigners and border control. Greenland and Denmark are two separate distinct travel areas. This means that a residence permit for Denmark does not give a right to stay in Greenland. Likewise, a residence permit for Greenland does not give a right to stay in Denmark.

To enter Greenland it is necessary to attain a separate permit for Greenland, which is administered by Danish authorities. Nationals from Denmark (including the Faroe Islands), Norway, Sweden, Finland and Iceland are not required to have a specific permit or visa for Green-





land for entry and may enter without any visas or other travel permits.

An application for a residence permit may be submitted to the Danish Agency for International Recruitment and Integration (SIRI) at the website www.newindenmark.dk or at the Danish embassies. There is no processing fee for the applications submitted to SIRI.

A residence permit does not grant a right to work in Greenland.

10.2 Municipality permit for employment

It follows from Act no. 27 of 30 October 1992 on the regulation of the entry of foreign workers in Greenland (with subsequent amendments) that an enterprise must obtain a municipal permit for employment before employing a foreign worker for a position if it is one of the types of positions stated in the act. A foreign worker may not undertake employment in Greenland without a municipal permit for employment. This requirement applies to the employment of any foreign worker, including a worker from one of the Nordic countries.

However, an enterprise is only required to obtain a municipal employment permit for one or more of the following specific types of work: (1) Work which does not require vocational training. (2) Work which requires vocational training equivalent to an apprenticeship or fundamental vocational training. (3) Work which requires a higher maritime education.

A municipal permit for employment will be granted by the municipality where the work is to be performed. The municipality will only grant a permit when the work position concerned has been advertised at the national web job portal (www.suli.gl) for at least 14 days and the municipality has not been able to identify a local worker with the required qualifications for the work.

A municipal permit for employment may be granted for up to 2 years at a time.

An enterprise can apply to the municipality for a municipal permit for employment at the website: www.suli.gl.



11. International memberships and cooperation

Greenland is not a member of the European Union (EU).

Greenland is associated with the EU as one of its Overseas Countries and Territories (OCTs). This means that Greenland in relation to the EU is a legal entity which is not part of the EU but has a special and close relation and cooperation with the EU and its member states.

General rules and principle of EU law therefore do not apply to Greenland. But the Treaty on the Functioning of the European Union (TFEU) contains provisions on Overseas Countries and Territories and their relationship with the EU and its member states.

Greenland has representative offices in Copenhagen, Denmark, in Brussels, Belgium, where many EU institutions also are located, and in Washington, D.C., United States of America. Further, Greenland is in the process of establishing a representative office in Reykjavik, Iceland.

The following states have consulates or honorary consulates in Greenland: Canada, Iceland, Norway, Sweden, Finland, Germany, the Netherlands, Belgium, France, Italy, The Republic of Latvia, The United Kingdom of Great Britain and Northern Ireland, The Republic of Korea and The Czech Republic.

12. Greenland Self-Government

Act no. 473 of 12 June 2009 on Greenland Self-Government (the Self-Government Act) came into force on 21 June 2009 and replaced the former Greenland Home Rule Act. Under the act, Greenland has extensive self-government. For most areas of legislation and government (areas of competence), the act either transfer or provide for the possible transfer of legislative power from the Danish Parliament to the Greenlandic Parliament and of executive power from the Danish Government to the Government of Greenland.

Based on the act, Greenland now has self-government in many areas of competence, which includes most

areas relating to the Greenlandic society and public and commercial activities in Greenland. Greenland also has competence in the area comprising exploitation, sale and export of ice and/or water. A list of the areas of competence taken over by the Greenland Self-Government is available at the website of the Danish Prime Minister's Office: www.stm.dk.

The Self-Government Act is the foundation of the Greenland democracy and society. It provides for the division of powers in the Greenland society between the Greenlandic Parliament, the Government of Greenland and the courts of law.

13. Greenlandic Parliament

The Greenlandic Parliament (in Greenlandic: Inatsisartut) has the legislative power and is democratically elected in free general elections and has 31 members.

The Parliament passes acts of law (laws), which apply to all public authorities and private parties, including persons and companies.



14. Government of Greenland and municipalities

The Government of Greenland (in Greenlandic: Naalakkersuisut) has the executive power. The Government is led by the Premier (that is the Prime Minister) and has ministers and ministries responsible for different areas of competence. The Greenlandic Parliament appoints the Premier. The Premier recommends candidate ministers to the Parliament which votes on the recommendation. The Government applies the law and ensures that the law is applied and observed by all public authorities and private parties.

The Government of Greenland and its administration act in accordance with the Greenland Self-Government Act, Greenlandic laws, the Constitutional Act of Denmark, other Danish laws to the extent they apply in Greenland, executive orders (regulations) set by the Government of

Greenland, and executive orders (regulations) set by the Danish Government to the extent they apply in Greenland. The Greenlandic authorities also act in accordance with, among others, Greenlandic Parliament Act no. 8 of 13 June 1994 on case handling procedures in public administration (with subsequent amendments), Greenlandic Parliament Act no. 9 of 13 June 1994 on public access to documents in administrative files (with subsequent amendments), and general rules and principles of public law, including the principles of legality, objectivity, proportionality and equal treatment (non-discrimination).

The main inhabited parts of Greenland are divided into five municipalities. Each municipality has powers to make provisions and decisions on certain local matters relating to the municipality.



15. Courts of law and administration of justice in Greenland

Judicial power in Greenland is exercised by courts of law with jurisdiction in Greenland. The court system for Greenland comprises the Supreme Court of Denmark, the High Court of Greenland, the Court of Greenland, and four district courts in Greenland. A matter decided by a district court or the Court of Greenland as the first instance court may be appealed to the High Court of Greenland. A matter decided by the High Court of

Greenland may be appealed to the Supreme Court of Denmark if a permission to do so is granted by the Appeals Permission Board.

The courts are subject to Danish law on courts, their functions and administration of justice, including the Danish Act no. 305 of 30 April 2008 on administration of justice in Greenland (with subsequent amendments).

16. Legislation

Greenlandic legislation

- Greenlandic Parliament Act no. 11 of 27 November 2018 on commercial exploitation of ice and water. The act has been supplemented by provisions set under the act
- Greenlandic Parliament Act no. 17 of 17 November 2010 concerning the planning and use of land (with subsequent amendments)
- Greenlandic Parliament Act No. 12 of 2 November 2006 on Income Tax (with subsequent amendments)
- Greenlandic Parliament Act no. 8 of 13 June 1994 on case handling procedures in public administration (with subsequent amendments)
- Greenlandic Parliament Act no. 9 of 13 June 1994 on public access to documents in administrative files (with subsequent amendments)
- Greenlandic Parliament Act no. 13 of 6 November 1997 on the Greenland Home Rule takeover of electricity and water supply for settlements.
- Greenlandic Parliament Act no. 27 of 30 October 1992 on the regulation of labor approach of Greenland. (with subsequent amendments)

Danish legislation applicable in Greenland

- Constitutional Act of Denmark (Act no. 169 of 5 June 1953)
- Act no. 473 of 12 June 2009 on Greenland Self-Government (Self-Government Act)
- Danish Executive Order no. 150 of 23 February 2001 concerning the application of the Danish alien act for Greenland



