

Unofficial translation

of

The Large-Scale Projects Act

Greenland Parliament Act no. 25 of 18 December 2012 relating to building and construction work on large-scale projects¹

With amendments as a result of Greenland Parliament Act no. 13 of 29 November 2013 concerning the amendment of Greenland Parliament Act relating to building and construction work on large-scale projects (Clarification and amendment of rules and regulations with regard to terms and conditions of remuneration and employment for foreign workers, collective bargaining agreements and the exercise of industrial rights, etc.)²

Amendments from 2013 are indicated as text in red.

With amendments as a result of Greenland Parliament Act no. 32 of 28 November 2019 concerning the amendment of Greenland Parliament Act relating to building and construction work on large-scale projects (Expansion of scope, related activities and reduction of the amount limit)³

Amendments from 2019 are indicated as text in blue.

¹ Greenland Parliament Act no. 25 of 18 December 2012 relating to building and construction work on large-scale projects is available at <http://lovgivning.gl/lov?rid={6D7F52B4-6893-4BDC-A943-601817D309A0}>.

² Greenland Parliament Act no. 13 of 29 November 2013 concerning the amendment of Greenland Parliament Act relating to building and construction work on large-scale projects (Clarification and amendment of rules and regulations with regard to terms and conditions of remuneration and employment for foreign workers, collective bargaining agreements and the exercise of industrial rights, etc.) is available at <http://lovgivning.gl/lov?rid={C5695611-BBD4-4EE6-B890-7F90B56AADD9}>.

³ Greenland Parliament Act no. 25 of 28 November 2019 concerning the amendment of Greenland Parliament Act relating to building and construction work on large-scale projects (Expansion of scope, related activities and reduction of the amount limit) is available at <http://lovgivning.gl/da-DK/Lov?rid={B9D255AA-E417-4D08-BEA9-9E6A9CA99E8C}>.

Part I
Aim and scope, etc.

1. - (1) This Act aims to promote investments in and performance of large-scale projects of particular importance for Greenland's economic development, whilst taking into account the interests of the population.

(2) This Act aims to prevent and restrict unintended negative impacts in terms of macroeconomics and the competitiveness of the business community, including disproportionate increases in general levels of wages and costs as a result of activities within the scope of the Act.

2. - (1) This Act is applicable to a project company's procurement of bids for construction contracts and awarding of orders for construction contracts when the Government of Greenland has granted a licence for the procurement of bids and awarding of orders to take place on conditions laid down in this Act, cf. Section 7.

3. - (1) When a project is a large-scale project, cf. Section 6 (1), this Act is applicable to the project's construction activities, cf. Section 5 (3), and not to other activities.

(2) When a project is not a large-scale project, this Act is not applicable to the project's construction activities, cf. Section 5 (3), or other activities.

Part II
Definitions

Project and project company

4. - (1) A project is understood to be a project that covers one of the following activities:

1) Exploitation of mineral resources in accordance with a licence granted pursuant to the Mineral Resources Act (mineral resources project).

2) Industrial activities based on the use of electricity produced by one or more hydropower facilities in accordance with a licence granted pursuant to the Hydropower Act.

3) Exploitation of hydropower for the production of electricity in accordance with a licence granted pursuant to the Hydropower Act.

(2) A project company is understood to be an enterprise or a group of enterprises that will carry out or are carrying out a large-scale project.

Project facilities, construction phase, establishment, construction activities, capital costs and construction contracts

5. - (1) Project facilities are understood to be a project's basic facilities, buildings, machinery, technical layouts and other physical infrastructure.

(2) The construction phase is understood to be the phase in which a project's project facilities are established.

(3) Construction activities are understood to be building and construction work and related activities on establishment of a project's project facilities in the construction phase.

(4) Capital costs are understood to be a project's total costs on establishment of project facilities in the construction phase.

(5) A construction contract is understood to be an agreement on the performance of construction activities during the construction phase.

Large-scale project

6. - (1) A project is deemed to be a large-scale project according to this Act if:

- 1) the project's capital costs exceed **DKK 1 billion** and
- 2) the project's need for labour for performance of construction activities exceeds the qualified, not otherwise employed and available workforce in Greenland, or
- 3) the project's requirements for technical and financial capacity exceed the capacity of Greenlandic enterprises in a technical or financial sense.

(2) With effect from **1 January 2020**, the amount stated in (1) - 1) will be regulated on an annual basis in accordance with the increase in the construction cost index.

Part III

Procurement of bids for construction contracts, awarding of construction contracts and licence for procurement of bids for construction contracts on special terms and conditions

7. - (1) The Government of Greenland can grant a project company a licence such that the procurement of bids for construction contracts and awarding of orders for construction contracts shall take place in accordance with terms and conditions laid down pursuant to this Act.

(2) A licence in accordance with (1) can only be granted to a project company which is a limited liability company with registered office in Greenland.

(3) If the project company is a member of a group, the company must do business at arm's length prices and observe arm's length terms and conditions.

(4) The procurement of bids for construction contracts and the awarding of orders for construction contracts can be put out to tender internationally and by means of international procurement of private bids in accordance with good national and international practice.

(5) In such a licence, the Government of Greenland shall stipulate provisions concerning terms and conditions for procurement of bids for construction work and awarding of orders for construction work, including requirements that the project company must stipulate when procuring bids and awarding orders. Provisions must be laid down concerning the project company's and its service providers' use of Greenlandic enterprises and Greenlandic labour, as the use of Greenlandic enterprises and Greenlandic labour must be promoted to the greatest possible extent when procuring bids and entering into tripartite agreements (Impact and Benefit Agreements, IBAs) between Greenland Self-Government, other public authorities and the project company, cf. Section 9 (3) - (6).

(6) In such a licence, the Government of Greenland shall stipulate provisions detailing the circumstances under which the licence will be forfeited or can be revoked by the Government of Greenland, the Government of Greenland's right to issue an enforcement notice with regard to compliance with the Act, provisions laid down pursuant to the Act and terms and conditions of the licence, cf. Section 17, in addition to the licence holder's obligation to pay damages or fines, etc.

(7) Prior to granting a licence in accordance with (1), the Government of Greenland must submit for approval its draft report of the Environmental Impact Assessment, cf. Section 8 (1), and submit for approval its draft report of the Social Impact Assessment, cf. Section 9 (1), for public consultation. Public consultation must include local public authorities, Greenlandic employers' associations and trade unions, in addition to Greenlandic associations and organisations that according to their articles of association are set up to look after material interests concerning social sustainability, environmental protection or human rights.

(8) The Government of Greenland shall notify a relevant committee established under the Parliament of Greenland prior to the Government of Greenland granting a licence in

accordance with (1).

Part IV

Environmental Impact Assessment and Social Impact Assessment

Environmental Impact Assessment (EIA)

8. - (1) Prior to granting a licence in accordance with Section 7 (1), an assessment of the impact on the environment (EIA) must be conducted, and a report to this effect (EIA Report) in accordance with the provisions of mineral resources legislation and environmental legislation must be approved by the Government of Greenland.

(2) Prior to an EIA report being submitted to the Government of Greenland, the Government of Greenland must conduct public consultation of a draft of the report. Public consultation must include local public authorities, Greenlandic employers' associations and trade unions, in addition to local associations and organisations that according to their articles of association are set up to look after material interests concerning social sustainability or environmental protection.

Social Impact Assessment (SIA)

9. - (1) Prior to granting a licence in accordance with Section 7 (1), an assessment of the impact on social sustainability (SIA) in connection with performance of the large-scale project must be conducted, and a report to this effect (SIA Report) must therefore be approved by the Government of Greenland.

(2) Provided that carrying out an SIA is not a consequence of other legislation, this must be conducted in accordance with recognised good international practice in the area. Prior to an SIA report being submitted to the Government of Greenland, the Government of Greenland must conduct public consultation of a draft of the report. Public consultation must include local public authorities, Greenlandic employers' associations and trade unions, in addition to local associations and organisations that according to their articles of association are set up to look after material interests concerning social sustainability or environmental protection.

(3) An SIA report must form the basis for entering into tripartite agreements (Impact and Benefit Agreements, IBAs) between Greenland Self-Government, other public authorities and the project company. A tripartite agreement must be reached prior to a licence being granted in accordance with Section 7 (1).

(4) In a tripartite agreement (IBA) it must be stipulated that procurement and awarding of orders for construction contracts that are within the scope of the tripartite agreement must take place on the basis of general terms and conditions for work and deliveries in building and construction activities in Greenland ("*Fælles betingelser for arbejder og leverancer i bygge og anlægsvirksomhed i Grønland*") in those cases where the general terms and conditions are applicable. A tripartite agreement (IBA) must include relevant provisions with regard to training or further training of Greenlandic labour and with regard to the accumulation or further development of the skills and knowledge of Greenlandic enterprises. A tripartite agreement (IBA) must also include a provision stipulating that disputes concerning the agreement must be presented to the Court in Greenland as the primary authority.

(5) Prior to entering into a tripartite agreement (IBA), public consultation must be carried out by local public authorities, Greenlandic employers' associations and trade unions, in addition to local associations and organisations that according to their articles of association are set up to look after material interests concerning social sustainability or environmental

protection. In connection with this public consultation, the parties involved must be given information that can make up the basis for issuing a statement concerning matters in the tripartite agreement of material importance for Greenlandic enterprises, Greenlandic employees or the project's impact on social or environmental conditions.

(6) The licence holder and its contractors, suppliers and service providers must use Greenlandic enterprises for contracts, deliveries and provisions of services. The Government of Greenland can, however, permit other enterprises to be used if the licence holder, contractor, supplier or service provider in question can demonstrate that Greenlandic enterprises are not competitive in either technical or commercial terms.

Part V

Terms of employment

Foreign workers' conditions of remuneration and employment, minimum wage and collective bargaining agreements, etc.

10. - (1) A foreign worker is understood in Sections 10a - 10h to be any wage-earner that meets the following criteria:

- 1) the worker usually performs his job outside Greenland,
- 2) the worker performs work for a particular period in Greenland to be used in the performance of the large-scale project's activities within the scope of a licence granted in accordance with this Act, and
- 3) the worker performs the work referred to in 2) in accordance with an agreement to this effect with the project company, the project company's contracting party or the project company's contracting party's contracting party, etc.

(2) The project company's contracting party is understood in (1) - 3), and Section 10a to be the project company's contractor, supplier or service provider.

(3) The project company's contracting party's contracting party is understood in (1) - 3), and Section 10a to be the project company's contracting party's contractor, supplier or service provider.

(4) The Government of Greenland can stipulate more detailed provisions concerning the delimitation of foreign workers, cf. (1), and contracting parties, cf. (1) - (3).

10a. - (1) The project company must ensure that a foreign worker has terms of remuneration and employment and working conditions that are acceptable, objectively and fairly justified and in accordance with this Act.

(2) The project company must also ensure terms of remuneration and employment and working conditions as referred to in (1) on the procurement of bids for construction work, awarding of orders for construction work, entering into of construction contracts and requirements concerning the project company's contracting parties' performance of construction contracts.

(3) The project company must also ensure that the project company's contracting parties, cf. Section 10 (2), and the project company's contracting parties' contracting parties, cf. Section 10 (3), in the same manner ensure terms of remuneration and employment and working conditions as referred to in (1) on the procurement of bids for construction work, awarding of orders for construction work, entering into of construction contracts and requirements concerning the project company's contracting parties' performance of construction contracts.

10b. - (1) A foreign worker can be a member of a Greenlandic trade union, a foreign trade union or choose not to be a member of any trade union.

(2) If a foreign worker is a member of a Greenlandic trade union, the union has the right to negotiate on behalf of the foreign worker, including the right to negotiate and enter into a

collective bargaining agreement and other agreements on pay and employment conditions for the foreign worker in accordance with general collective labour law in Greenland. Furthermore, the union also has the right to engage in conflict on behalf of the foreign worker, including the right to carry out collective industrial action in support of securing a collective bargaining agreement for the foreign worker in accordance with general collective labour law in Greenland.

(3) If a foreign worker is a member of a foreign trade union, the union has the right of negotiation on behalf of the foreign worker, including the right to negotiate and enter into a collective bargaining agreement and other agreements on pay and employment conditions for the foreign worker in accordance with general collective labour law in Greenland. Furthermore, the union also has the right to engage in conflict on behalf of the foreign worker, including the right to carry out collective industrial action in support of securing a collective bargaining agreement for the foreign worker in accordance with general collective labour law in Greenland.

(4) A Greenlandic trade union can carry out collective industrial action against a Greenlandic or foreign employer in support of securing a collective bargaining agreement for foreign workers that are members of another Greenlandic or foreign trade union or who are not members of any trade union, provided that access thereto is a consequence of general collective labour law in Greenland, cf. (5), however.

(5) A Greenlandic trade union can only take collective industrial action referred to in (4) if the union has documented to the employer in advance that remuneration according to the desired collective bargaining agreement corresponds to remuneration according to an agreement that applies throughout Greenland and has been reached between the most representative parties on the labour market in Greenland within the professional area covered by the desired collective agreement. Remuneration must be clearly stated in the agreement.

(6) Within the same professional area, collective agreements as referred to in (2) and (3) can be entered into with several trade unions, including several unions from the same country.

(7) If several foreign workers collectively withdraw from a trade union, the workers continue to be bound by the union agreements that apply on withdrawal for as long as the agreements remain valid.

10c. - (1) In a collective bargaining agreement or an employment contract for a foreign worker, a wage per hour cannot be specified that is lower than the basic wage plus piece-rate guarantee payment per hour that is stipulated in collective bargaining agreements between the most representative parties on Greenland's labour market.

(2) A foreign worker's employer shall ensure and cover costs in connection with the worker's board and lodging, working clothes, paid-up travel and insurance.

(3) When making up a wage in a collective bargaining agreement or an employment contract for a foreign worker, the value of board and lodging, working clothes expenses, paid-up travel and insurance can be included, provided that the total value thereof is not greater than a certain amount per week, cf. (4).

(4) The amount referred to in (3) is stipulated by the Government of Greenland through the issue of an executive order to this effect and on the basis of the Government of Greenland's estimate of the total value of board and lodging, working clothes expenses, paid-up travel and insurance. With effect from 1 January in the year following the Government of Greenland's issue of the executive order, the amount stipulated in the executive order will be regulated annually according to changes to Greenland's consumer price index.

10d. - (1) A foreign worker qualifies for holiday from the employer from the time at which the worker begins to carry out work in Greenland. A qualifying year is a calendar year. If the

foreign worker has carried out work in Greenland for a period shorter than 12 months in a calendar year, the qualifying year includes only the shorter period.

(2) Holiday is earned at a rate of 0.096 hours for every hour of ordinary employment in the qualifying year. In the event of ordinary employment of 40 hours a week during the qualifying year, the right to 200 holiday hours is earned. In the event of employment with a lower number of hours, holiday hours are earned proportionately. In a qualifying year the foreign worker can earn a maximum of 200 holiday hours, corresponding to 5 working weeks or 25 working days in a 5-day working week. A foreign worker earns the right to holiday during the period in which the foreign worker is employed, is taking holiday or is absent due to illness or injury.

(3) Holiday that has been earned must be held in a holiday year which covers a period of 12 months after the qualifying year, cf. (1). If the worker is employed by the employer for a period shorter than 12 months after the qualifying year, cf. (1), the holiday year covers only the shorter period. Following negotiations with the worker, the employer decides when holiday is to be held in the holiday year. The worker has the right, however, to take the entire earned holiday as uninterrupted holiday during the holiday year.

(4) When the worker takes his holiday, the employer must pay the worker holiday pay for every holiday hour held. Holiday pay must be an amount that corresponds to the worker's average wage for each working hour in the qualifying year.

(5) The employer must give the foreign worker the opportunity to take his holiday in his native country in connection with journeys on starting and terminating employment.

(6) The rules in (1) – (5) do not limit the worker's further rights according to a collective bargaining agreement or an employment contract.

10e. - (1) The Government of Greenland can stipulate more detailed provisions with regard to the conditions referred to in Sections 10a - 10d, including a delimitation of the most representative parties on the labour market and their relevant collective agreements, trade unions' rights to negotiate and to engage in conflict, the make-up of wages and basic wage per hour according to collective bargaining agreements and holiday.

10f. - (1) In an agreement between a foreign worker and his employer, no departures to the detriment of the worker may be made from the conditions of remuneration and employment stipulated in a collective bargaining agreement that is entered into by the worker's union, cf. Section 10b (2) or (3), and which cover the worker, or if terms and conditions apply to the employee according to an agreement to this effect between the employee and the employer.

10g. - (1) Terms of remuneration and employment and working conditions for foreign workers must not contravene rules of law applicable to Greenland or Greenland's international obligations.

(2) Otherwise, general collective labour law in Greenland applies to foreign workers, Greenlandic and foreign employers, Greenlandic and foreign workers' trade unions and collective bargaining agreements for foreign workers, including negotiation and entering into such collective bargaining agreements and collective industrial action to support this.

10h. - (1) Any dispute concerning the conditions referred to in Sections 10-10g, including foreign workers' conditions of remuneration and employment, employment contracts, professional associations, collective bargaining agreements, collective industrial action and holiday, are adjudicated upon by the Court of Greenland as the primary authority.

(2) Any dispute referred to in (1) is adjudicated upon according to Greenlandic and Danish rules and licence conditions applicable to Greenland, including this Act and a licence granted in accordance with this Act, and otherwise in accordance with effective and applicable

agreements and collective bargaining agreements, unless otherwise required as a result of Greenland's international obligations.

Insurance and journey home

- 11.** - (1) On procurement of bids for construction work and awarding of orders for construction work, the project company must stipulate requirements that a bidder and a contracting party are contractually bound to the following:
- 1) Taking out commercial or product liability insurance.
 - 2) Taking out statutory industrial injury insurance and industrial disease insurance. The bidder's and the contracting party's duty to defray the expenses of insurance cover must appear in the terms and conditions of employment.
 - 3) Taking out insurance for security for payment of expenses for evacuation, transportation and **treatment** of sick and injured employees. The bidder's and the contracting party's duty to defray the expenses of insurance cover must appear in the terms and conditions of employment.
 - 4) Ensuring that **foreign workers** leave Greenland when they are no longer employed on the large-scale project. The bidder and contracting party must, if necessary, carry the costs of the journey home.
 - 5) Ensuring that qualified medical personnel are available at or near the site of employment.

Part VI

Other legislation

12. - (1) Legislation relating to the regulation of the influx of labour is not applicable to foreign labour that is employed on projects covered by a licence granted in accordance with this Act.

13. - (1) Legislation relating to the seaborne carriage of goods to, from and in Greenland is not applicable to seaborne carriage in connection with activities within the scope of a licence granted in accordance with this Act, provided that a transport customer can demonstrate one of the following conditions with regard to seaborne carriage:

- 1) Considerably higher costs or considerable delays will result if carriage is carried out by the shipping company that has the exclusive right to carry out seaborne carriage granted according to Section 4 (2) in the parliamentary order relating to the seaborne carriage of goods to, from and in Greenland.
- 2) The shipping company referred to in 1) is not competitive in technical or commercial terms with regard to performance of carriage.

14. - (1) Legislation relating to holidays is not applicable to **foreign workers** employed on pay and employment conditions stipulated according to **Sections 10 – 10h**.

15. - (1) Legislation relating to business activities are not applicable to building and construction work and deliveries related thereto covered by a licence granted in accordance with this Act.

Part VII

Authority processing and appeals, etc.

16. - (1) An application for granting of a licence in accordance with this Act should be submitted to the Government of Greenland.

(2) The Government of Greenland issues an executive order with detailed provisions concerning public consultation in accordance with Section 7 (7), Section 8 (2), and Section 9 (2) and (5). Public consultation is designed to help promote the involvement of the population and businesses in the determination of the basis for assessment and decisions in accordance with this Act, including social sustainability, environmental protection and the assessment of potential impacts on society or the environment.

17. - (1) The Government of Greenland supervises observance of the Act. The Government of Greenland can issue an enforcement notice with regard to compliance with the Act, provisions laid down pursuant to the Act and licence conditions. The enforcement notice can be issued to the project company or others carrying out construction activities within the scope of a licence granted in accordance with Section 7.

18. - (1) The project company must regularly forward reports on construction activities, including reports on financial matters, employees, health and safety.

(2) Terms and conditions with regard to reporting and in terms of confidentiality in connection therewith are stipulated in the licence.

(3) The Government of Greenland forwards a summary or an extract of the project company's report to a relevant committee set up under the Parliament of Greenland in order to brief the committee, and publishes those parts of the report that are not confidential.

(4) Terms and conditions are laid down in the licence stipulating that the project company must publish collective bargaining agreements as referred to in **Section 10b (2) and (3)**, as well as information about general pay and employment conditions for **foreign workers** that are not covered by a collective agreement.

19. - (1) The project company and others that carry out construction activities within the scope of a licence granted in accordance with Section 7 pay expenses in connection with case handling and other authority processing in accordance with the Act, including expenses for necessary translation and interpretation services.

(2) Payment can be charged as fees or reimbursement of expenses. The Government of Greenland can stipulate more detailed provisions to this effect.

20. - (1) Decisions according to this Act can be taken by one or more authorities under the Government of Greenland, provided that the authority or authorities referred to have the power for this purpose according to provisions stipulated by the Government of Greenland pursuant to (2).

(2) The Government of Greenland can stipulate more detailed provisions concerning matters referred to in (1) and Section 21, cf. (3) and (4), however.

(3) The Government of Greenland makes decisions on notification, material amendments, transfer, revocation and approval of reinstatement of a licence in accordance with Section 7 (1).

(4) Decisions concerning matters that may have a significant impact on society or the environment, including approval of an EIA report or an SIA report or the entering into of a tripartite agreement (IBA), are made by the Government of Greenland.

21. - (1) Appeals concerning a decision reached by an authority under the Government of Greenland in accordance with this Act, cf. Section 20, can be presented to the Government of Greenland.

(2) The deadline for appeal is 6 weeks. The appeal deadline is calculated from the day of notification if the decision is notified to a party, and from the day of publication if the decision is made public. If the appeal deadline expires on a Saturday or a public holiday, the appeal deadline is extended until the following weekday.

(3) An appeal must be submitted in writing to the authority that has made the decision. At the earliest opportunity following expiry of the appeal deadline, the authority will send the appeal and the authority's decision and comments to the Government of Greenland.

(4) An appeal against an approval or dispensation does not have delaying effect unless otherwise decided by the Government of Greenland.

(5) The Government of Greenland can lay down provisions as to whether an approval or a dispensation may not be utilised within the appeal deadline.

(6) An appeal against an enforcement notice or a prohibition does not have delaying effect unless the Government of Greenland decides otherwise.

(7) The following have the right of appeal:

- 1) The party to which the decision applies.
- 2) Anyone that has an individual, material interest in the outcome of the matter.
- 3) Local employer associations and trade unions.
- 4) Greenlandic associations and organisations that according to their articles of association are set up to look after material interests concerning social sustainability, environmental protection or human rights.

Part VIII

Other rules

22. - (1) Case handling and decisions can be made in English if the addressees of the decisions wish this to be the case and consideration of the parties involved in the matter does not in any material manner preclude the use of English.

Part IX

Sanctions

23. - (1) Fines can be levied according to the Penal Code for Greenland to the party that wilfully or exhibiting gross negligence:

1) Gives incorrect or misleading information or fails to disclose information that an authority has a right to in accordance with this Act or according to provisions pursuant to this Act, cf. Section 18.

2) Fails to comply with an enforcement notice given pursuant to this Act or provisions and licence conditions pursuant to this Act, cf. Section 17.

(2) Where the Act or provisions stipulated pursuant to the Act warrant determination of a fine, the fine can be imposed on a legal entity in accordance with Section 17 of the Penal Code for Greenland.

(3) Fines that are given pursuant to this Act or provisions stipulated pursuant to the Act accrue to the Greenland Treasury.

Part X

Commencement and transitional provisions

24. - (1) The Act comes into force on 1 January 2013.

Greenland's Self-Government, 18 December 2012

Kuupik Vandersee Kleist