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Contents

1. General Structure of Mineral Ownership and Regulation	p.3
1.1 Ownership of Mineral Deposits	p.3
1.2 Regulation of Mining Industry	p.3
1.3 Independent Regulations for Mining	p.4
1.4 Administration of the Mining Industry	p.4
2. Required Authorisations and Permits	p.4
2.1 Requirements to Conduct Prospecting	p.4
2.2 Requirements to Conduct Exploration	p.4
2.3 Requirements to Conduct Mining	p.5
2.4 Environmental Requirements to Conduct Exploration and Mining	p.6
3. Duties and Rights Derived from a Mining Title or Concession	p.7
3.1 Rights Granted by a Mining Title to Holder	p.7
3.2 Duties Acquired by the Title Holder	p.7
3.3 Rights Acquired by the Title Holder	p.7
3.4 Duties Acquired by the Landowners	p.8
3.5 Duties of the Title Holder at End of the Title	p.8
4. Environmental	p.9
4.1 Principal Environmental Laws	p.9
4.2 Bodies of Environmental Competence	p.9
4.3 Environmental Obligations	p.9
5. Miscellaneous	p.10
5.1 Special Rules or Taxes	p.10
5.2 Restricted or Excluded Zones	p.10
5.3 Rights of Indigenous or Ethnic Communities	p.12
5.4 Unilateral Termination of a Mining Title	p.12
5.5 Taxes or Royalties	p.13

HPP Attorneys Ltd has 65 lawyers and is one of the leading legal advisers with regard to mining and mineral exploration in Finland, offering a full range of legal services required for the establishment and successful implementation of a mining project. The team offers sector-specific knowledge and expertise in environmental law, along with

mining law, land use, and energy and infrastructure projects. In M&A, real estate and finance transactions where environmental aspects and additional investments are of central importance, HPP is well placed to assess and assign value judgement to risks, and to provide solutions that take mining and environmental law issues into consideration.

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1. General Structure of Mineral Ownership and Regulation

1.1 Ownership of Mineral Deposits

In Finland, the privilege to exploit a deposit belongs to the finder of the deposit, irrespective of who owns the surface property, but the State controls and supervises exploration and mining operations through the granting and supervision of exploration permits, gold panning permits and mining permits.

1.2 Regulation of Mining Industry

The legal system in Finland is based on civil law, and mining operations are regulated at a national and EU law level. Exploration and mining operations are regulated by the Mining Act (nr 621/2011, kaivoslaki), which regulates exploration and mining and the organising of the use of areas required for mining and exploration. The Mining Act lays down provisions for the exploration and exploitation of a deposit containing mining minerals, for gold panning in an area owned by the State and for the termination of related operations, as well as the proceedings for the establishment of a mining area.

The former Mining Act (nr 503/1965) was revoked by the current Mining Act but still applies to some extent to pro-

jects where the exploration or mining rights have been granted under the revoked Mining Act.

The regulations of the Mining Act are supplemented by the Government Decree on Mining (nr 391/2012), the Degree of the Ministry of Employment and the Economy on Hoisting Plants (nr 1455/2011), the Government Decree on Mining Safety (nr 1571/2011) and the Government Decree on Extractive Waste (nr 190/2013).

In addition, mining operations are regulated by environmental laws such as the Environmental Protection Act (nr 527/2014); the Water Act (nr 587/2011, vesilaki), which governs water-related construction projects and the use of water resources and the aquatic environment; the Waste Act (nr 646/2011, jätelaki), which governs waste management and littering, the prevention of waste generation, and the prevention of danger and harm to human health and the environment caused by waste; the Nature Conservation Act (nr 1096/1996, luonnonsuojelulaki), which governs nature and landscape conservation and management; the Land Use and Building Act (nr 132/1999, maankäyttö- ja rakennuslaki), which governs planning, building development and the use of land and water areas; and the Chemicals Act (nr 599/2013, kemikaalilaki), which governs the enforcement of the European Union chemicals legislation and certain national obligations regarding chemicals.

Finland has ratified the ILO 176 Safety and Health in Mines convention, 1995 and the Convention on Biological Diversity, 1992. Finland has signed the ILO 169 Indigenous and Tribal Peoples Convention of 1989 but it has not yet been ratified.

1.3 Independent Regulations for Mining

There is no extraction of oil or natural gas in Finland since Finland lacks domestic sources of oil and natural gas, so there is no separate regulatory regime for oil and natural gas.

1.4 Administration of the Mining Industry

The Finnish Safety and Chemicals Agency (Tukes) is the main regulatory agency for the mining industry. It grants exploration, gold panning and mining permits under the Mining Act, and supervises and enforces compliance with the Mining Act. However, mining permit matters relating to the production of uranium or thorium under the Mining Act and Nuclear Energy Act are handled and granted by the Government.

The Ministry of Employment and the Economy is responsible for generally directing, surveying and developing operations within the scope of the Mining Act, compared to operative tasks such as the supervision of mining operators and the granting of permits carried out by Tukes.

2. Required Authorisations and Permits

2.1 Requirements to Conduct Prospecting

Based on the Mining Act, everyone has the right to conduct geological measurements and make observations and to take minor samples in order to find mining minerals, even on another's land, provided that doing so does not cause any damage (including but not limited to financial or other damage – eg, to ground, bedrock or vegetation) or more than minor inconvenience or disturbance (such as inconvenience or disturbance to reindeer herding or other business, or to other use of land within the relevant area).

Prospecting work may not be carried out on a public cemetery or an area belonging to a private grave and an area within 50 metres of these. In addition, prospecting work may not be carried out in restricted areas without the consent of the authority or institution that is competent in the matter, or that of the relevant holder of rights, including the following areas:

- an area used by the defence forces, or any area controlled by the Border Guard where movement is restricted or prohibited, or an area within 100 metres of such an area;
- an area where movement is restricted or access denied to outsiders;
- a traffic route or passage in public use;

- an area within 150 metres of a building intended for residential or work use, or comparable space, and any adjoining private yard, or the site for such a building, if a permit required for building referred to in the Land Use and Building Act has been granted for it and construction has begun;
- an area in horticultural use;
- an area within 50 metres of a public building or utility, or either a power line with a voltage of over 35,000 volts or a transformer station; and
- any other area corresponding to the above list that is designated for special use.

In addition to the provisions laid down in the Mining Act, prospecting work shall comply with the provisions of, eg, the Nature Conservation Act, the Environmental Protection Act, the Act on the Protection of Wilderness Reserves (nr 62/1991), the Land Use and Building Act, the Water Act, the Reindeer Husbandry Act, the Antiquities Act (nr 295/1963) and the Off-Road Traffic Act (nr 1710/1995). Prospecting work is subject to the same restrictions on movement and other restrictions that apply in general. Thus, the use of motor-powered vehicles off road is not allowed without a permit from the landowner or holder of the land, and the restrictions on movement, geological measurements and exploration on nature conservation areas shall also be complied with.

Sampling is considered to be allowed based on prospecting work if it is carried out, eg, with a handheld hammer, shovel or handheld drill, provided that the sampling does not cause damage or more than minor inconvenience or disturbance, and the sampling site is restored.

Two weeks prior to the commencement of sampling related to prospecting work, at the latest, the party in charge of prospecting work shall submit a written notification to the owner and holder of real estate in the area where prospecting work is to take place, whose right or advantage the matter may involve. The notification shall include the contact information of the party responsible for prospecting work, information on the prospecting area, and a plan regarding the sampling. The plan shall also include information on the equipment and methods to be used, the sampling schedule, and the targeted mining mineral.

If the prospecting work causes damage or more than minor inconvenience or disturbance, it requires either a permit from the landowner or an exploration permit.

2.2 Requirements to Conduct Exploration Exploration permit

An exploration permit is needed if the exploration cannot take place as prospecting work, and the landowner has not given permission for exploration. An exploration permit is also required if the activity poses any risk to people's health,

general safety or other industrial and commercial activity, as well as any deterioration of values concerning the landscape or nature conservation. Exploration targeted at uranium or thorium always requires an exploration permit.

An exploration permit allows the holder to explore the permitted area and the structures and composition of geological formations, and to conduct other exploration in order to prepare for mining activity and other ore prospecting in order to locate a deposit and investigate its quality, extent and degree of exploitation. It does not authorise exploitation of the deposit and, subject to the activities allowed based on the exploration permit, does not limit the property owner's right to use the area or to dispose of it. An ore prospecting permit provides its holder with a privilege to apply for the mining permit, which in turn provides the right to exploit the deposit.

The holder of an exploration permit shall limit exploration and other use of the exploration area to measures that are necessary for the purposes of exploration activity. The measures shall be planned so as not to cause an infringement of public or private interests that is avoidable by reasonable means. Exploration pursuant to an exploration permit, and other use of the exploration area, shall not cause:

- harm to people's health or a danger to public safety;
- essential damage to other industrial and commercial activity;
- significant changes in natural conditions;
- essential damage to rare or valuable natural occurrences; or
- significant damage to the landscape.

The holder of the exploration permit must notify owners of real estate included in the exploration area, and other holders of rights, in advance and in writing of all field work that could cause any damage or harm, and of any temporary constructions to be erected. Moreover, a notification must be submitted to the Sami Parliament in the Sami Homeland, to the appropriate local reindeer owners' associations within an area specifically intended for reindeer herding, and to a village meeting of the Skolt people in the special Skolt area. Furthermore, the holder of the exploration permit is obliged to inform authorities overseeing public interests about the fieldwork as provided in more detail in said permit.

Depending on the nature of the exploration activities to be carried out based on an exploration permit, an environmental permit or test permit or a permit under the Water Act may also be required for the exploration.

Gold panning permit

Exploration of gold deposits through panning in an area owned by the Finnish State requires a permit for gold panning. The holder of a gold panning permit has the exclusive

right within the gold panning area specified in the permit, as provided in the gold panning permit in more detail:

- to prospect for and survey gold deposited in the soil;
- to recover and exploit gold deposited in the soil by means of panning; and
- to recover and exploit nuggets of platinum and gemstones and precious stones found in loose soil as by-products of panning.

Subject to the activities allowed based on the gold panning permit, the gold panning permit does not limit the property owner's right to use the area or to govern it.

The activities undertaken under the gold panning permit, and other use of the gold panning area, shall not cause any inconvenience or damage, similarly as described for an exploration permit above, nor inconvenience or damage as regards other demands for nearby areas, nor damage to any buildings of value in terms of cultural history, or courtyard areas thereof, in the area. The gold panner shall keep the gold panning area in such a condition that it meets safety requirements on a continuous basis and does not cause any detrimental environmental impact.

The gold panner must provide advance notification in writing to the authority or institution responsible for the management of the area of all field work that could cause damage or inconvenience. Moreover, notification shall be submitted to the Sami Parliament in the Sami Homeland, to the appropriate local reindeer owners' associations in a special reindeer herding area, and/or to a village meeting of the Skolt people in the Skolt area, as relevant.

2.3 Requirements to Conduct Mining

Mining permit: The establishment of a mine and the undertaking of mining activity requires a mining permit. A mining permit gives provisions for the location and borders of the mining area to be formed and the auxiliary area to the mine, and specifies a term within which the mining permit-holder shall engage in mining activity or other such preparatory activity that indicates that the permit-holder is seriously aiming to initiate actual mining operations. The mining permit shall also include the necessary provisions for securing public and private interests.

Redemption permit for a mining area: If the applicant for the mining permit does not own the land for which the mining permit is applied, the right to utilise and use an area in the possession of another party as a mining area requires a permit from the Government (redemption permit for a mining area). A redemption permit for a mining area may be granted if the mining project is based on public need and the mining area meets the requirements laid down in the Mining Act. The requirement of public need shall be assessed particularly on the basis of the impact of the mining project

on the local and regional economy and employment, and the social need for raw material supply. The redemption permit for a mining area specifies the property that the redemption concerns, and sets forth the content of the right of use.

Right of use and other rights related to an auxiliary area:

In addition to the redemption permit for a mining area, unless otherwise provided by law, a limited right of use and other rights may be granted in the mining permit to an auxiliary area to a mine that is not owned by the mining permit-holder, provided that the auxiliary area is an area that is indispensable as regards mining activity, is located in the vicinity of the mining area and is necessary for the purposes of road access, transport equipment, power lines or water pipes, sewers, treatment of waters, or a transport route to be excavated to a sufficient distance from the surface. Such a right can be granted only insofar as the placement of functions planned for the area cannot be otherwise arranged in a satisfactory manner, and at moderate cost.

Mining safety permit: The construction of a mine and its productive operations are subject to a permit by the mining authority (mining safety permit), which includes the necessary provisions for securing public and private interests concerning the matters related to safety at the mine. A mining safety permit shall not be granted before the mining permit has become legally valid and, if the mining area and the auxiliary area to the mine are not in the possession of the mining operator, the operator has gained possession of said areas.

2.4 Environmental Requirements to Conduct Exploration and Mining

Environmental permit

Pursuant to the Environmental Protection Act, an environmental permit is required for activities that involve a risk of environmental pollution. Pursuant to the Environmental Protection Act, mining operations and the excavation of gold with machines requires an environmental permit, as does an ore or mineral concentration plant. Although the majority of exploration is of a nature that it can be carried out without an environmental permit, based on what has been set out above, exploration may require an environmental permit if the impacts of the planned activities (eg, test mining) exceed the criteria set out in the Environmental Protection Act.

Other permits

The Environmental Protection Act governs an integrated permit regime for emissions into air, water and soil, and the generation of waste. However, the environmental permit does not necessarily cover all activities on the project site, in which case other permits or notifications pursuant to other environmental laws may be required. A permit application concerning the pollution of water and an application referred to in the Water Act pertaining to the same activity and a right-of-use application under the Water Act, such as the taking of water for the purposes of mining operations,

are processed together and included in one decision, unless this is deemed unnecessary for a special reason.

In addition to the Environmental Protection Act and environmental permits, other permit requirements exist in relation to, eg, chemicals, radiation/nuclear operations, roads, railways, construction work in waterbodies, concessions for electricity or natural gas lines, transport of dangerous goods, and the handling/storage of inflammable or explosive goods.

Experimental activities

When the operations of a mine proceed there may be a need to amend the mines processes, and such development work may require experimental activities.

An environmental permit is not required for short-term activities undertaken on an experimental basis when the purpose is to test a raw material or fuel, manufacturing or incineration method or treatment equipment, or to investigate the impact, usefulness or other corresponding feature of such activities by means of institutional or commercial processing of waste. An environmental permit is required if the planned activities:

- may cause pollution of a water body, and the project in question is not subject to a permit under the Water Act;
- include conducting waste water that may lead to the pollution of a ditch, spring or streamlet; or
- may place an unreasonable burden on the surroundings.

A written notification on experimental activities shall be made to the competent environmental permit authority at the latest 30 days before starting the activity. The environmental permit authority shall give a decision on the notification and may also prohibit or terminate experimental activities if the activities result in material inconvenience to public or private interests that cannot be sufficiently reduced with permit regulations.

Environmental impact assessment

The environmental impact assessment procedure is required, as a rule, for projects listed in Annex 1 of the Act on Environmental Impact Assessment Procedure (“EIA Act” nr 252/2017, laki ympäristövaikutusten arviointimenettelystä), which are considered to have significant adverse environmental impact. Furthermore, an EIA can be required based on a case-by-case consideration by the ELY Centre when the impact of a new project or a change/extension of an existing project is deemed significant in a manner that, also taking into account the cumulative impact of different projects, it may have significant adverse environmental impact that is comparable to the impact of the projects for which, as a rule, an EIA procedure is required to be carried out.

Pursuant to Annex 1 of the EIA Act, the mining, concentration and processing of metal ore or other mining minerals

requires an EIA when the aggregate amount of the excavated material is at the minimum 550,000 tonnes per year, or for open pit mines of more than 25 hectares. Similarly, the mining, concentration and processing of uranium requires an EIA except for test mining, test concentration and other corresponding processing.

The results of an EIA procedure are reflected in the EIA report and justified statement by the ELY Centre, and are to be taken into consideration when issuing a permit for a project. Furthermore, the right of appeal on the grounds of lack or inadequacy of the EIA is linked to the approval of/ appeal against the permit decision.

3. Duties and Rights Derived from a Mining Title or Concession

3.1 Rights Granted by a Mining Title to Holder

A mining permit entitles the holder to exploit:

- the mining minerals found in the mining area;
- the organic and inorganic surface materials, excess rock, and tailings generated as a by-product of mining activities (byproduct of mining activity); and
- other materials belonging to the bedrock and soil of the mining area, insofar as the use thereof is necessary for the purposes of mining operations in the mining area.

Moreover, the mining permit entitles its holder to perform exploration within the mining area in accordance with the terms applicable to exploration under the exploration permit, and the more specific conditions specified in the mining permit.

3.2 Duties Acquired by the Title Holder

The mining permit-holder is obliged to ensure the following:

- that mining activities do not cause damage to people's health or danger to public safety;
- that mining activities do not cause significant harm to public or private interests, nor – in relation to the overall costs of the mining operations – reasonably avoidable infringement of public or private interests;
- that excavation and exploitation do not entail obvious wasting of mining minerals; and
- that potential future use and excavation work at the mine and deposit are not endangered or encumbered.

The mining permit-holder is obliged to submit an annual report to the mining authority on the extent and results of the exploitation of the deposit, and to inform the authority of any essential changes in the information on mineral resources.

With respect to payment obligations to landowners, please see **3.4 Duties Acquired Towards Landowners** below.

3.3 Rights Acquired by the Title Holder

A mining permit alone does not automatically provide the permit-holder with the right to use the mining area or auxiliary area. Utilisation of a mining permit requires the permit-holder to have acquired the right to utilise the mining area/ auxiliary area either through contractual arrangements with the landowner (purchase of land) or through a redemption permit for a mining area that provides the right to use the mining area.

If the permit-holder does not own the relevant area, the Government can grant the right to utilise an area in the possession of another party as a mining area (redemption permit for a mining area). In addition, a limited right of use and other rights to an area in the ownership of another party as an auxiliary area to a mine may be granted in the mining permit, unless otherwise provided by law or if the auxiliary area is an area that is indispensable as regards the mining activity, is located in the vicinity of the mining area, and is necessary for the purposes of road access, transport equipment, power lines or water pipes, sewers, treatment of waters, or a transport route to be excavated to a sufficient distance from the surface. Such a right can be granted only insofar as the placement of functions planned for the area cannot be otherwise arranged in a satisfactory manner, and at moderate cost.

If the mining area or auxiliary area to the mine causes substantial inconvenience to the usage of the real property or part thereof, the landowner is entitled to demand that the holder of the redemption permit for a mining area, and a mining permit, redeems the real property or relevant part thereof. If the local detailed plan designates an area for mining activity, in the proceedings establishing a mining area the landowner has the right to demand full redemption of the area indicated in the plan. Property or parts thereof that are redeemed based on a demand of the landowner shall be formed into one or several redemption units separate from the mining area, which are owned by the holder of the mining permit.

The redemption (whether based on the redemption permit for a mining area for the right to utilise the area or by demand by the landowner resulting in ownership of the relevant area) is completed in the proceedings to establish the mining area. The redemption decision shall be declared at the final meeting in the proceedings establishing a mining area. The redemption decision confirms the object of redemption, on the basis of the redemption permit for a mining area and the mining permit and, if necessary, as indicated by the mining permit holder, and it establishes the right of use and other rights, also setting the required terms and restrictions for the usage of areas.

Once the redemption decision has become legally valid, the right of use is established for mining activity for the holder of the redemption permit for a mining area and the mining permit for the area confirmed as the mining area, and another special right to the auxiliary area to the mine, corresponding to its purpose of use, unless the areas have already been in the possession of the permit-holder.

If the mining area does not belong to the permit-holder or the permit-holder has not gained possession of it within five years of the granting of the permit, or if the permit-holder submits an application concerning this, the permit authority shall decide that the mining permit will expire.

3.4 Duties Acquired by the Landowners

A mining permit-holder shall pay annual fees to landowners of the properties belonging to the mining area, as follows:

Excavation fee : A mining permit-holder must pay an annual excavation fee to landowners whose properties are within the mining area. The annual amount of the excavation fee per property is EUR50 per hectare. If the permit authority has postponed the expiry of the mining permit prior to mining having started, or if it has been suspended, the excavation fee is EUR100 per hectare until mining activities are commenced or resumed. The obligation to pay an excavation fee commences when the mining permit or the respective decision for commencing or continuing activities becomes legally valid. In addition, the holder of the mining permit shall pay 0.15% of the calculated value of mining minerals included in the metal ores that are excavated and exploited in the course of the year as an excavation fee, or, taking into consideration the grounds influencing the financial value of the mining mineral, a reasonable compensation for excavated and exploited mining mineral other than metallic mineral in accordance with either an agreement between the property owner and the holder of a mining permit, or confirmation by the mining authority.

By-product fee : The mining permit-holder shall pay annual property-specific compensation (by-product fee) to each landowner in the mining area for the benefit gained from by-products of mining activities that are used for purposes other than mining activity. The by-product fee shall be moderate, considering the factors influencing the financial value of the by-product. If the mining permit-holder and landowner do not agree on the compensation, it shall be a maximum of 10% of the sales proceeds gained from the by-product.

Compensations related to proceedings establishing a mining area : The holder of the mining permit and the redemption permit for a mining area shall pay landowners of the properties belonging to the mining area and other relevant parties full compensation for harm, inconvenience and damage caused as a result of the establishment of the mining

area and redemption of the right of use of and other rights related thereto. The compensations shall be ordered in the proceedings to establish the mining area.

If compensation defined in the proceedings to establish a mining area can only be imposed after the conclusion of the proceedings establishing a mining area, and no agreement is made on compensation, the subject of compensation shall be resolved in proceedings commenced upon the demand of the holder of the redemption permit for a mining area and mining permit, or the party demanding compensation. The provisions laid down concerning the proceedings establishing a mining area shall apply. Proceedings shall be applied for within three years of the occurrence of the damage or inconvenience. Upon application, the competent land survey office issues the order for proceedings. By request of the competent land survey office, the mining authority shall issue a statement to clarify the matter. The property, inconvenience or damage to be compensated for shall be assessed in the commenced proceedings.

With respect to obligations related to closure of a mine, please see **3.5 Duties of the Title Holder at End of the Title** below.

3.5 Duties of the Title Holder at End of the Title Restoring under Mining Act

The operator of the mine is obliged to restore it to a condition complying with public safety, to clean up, and to landscape the mining district and the auxiliary area within two years of the end of the mining operation. The mining operator shall submit notification in writing to the mining authority without delay after the above tasks have been finalised, and at the latest two years from the end of the mining operation.

The mining authority shall arrange a final inspection, unless this can be deemed unnecessary, and shall compile an inspection report. The parties involved shall be heard and a statement shall be sought from the respective municipality and the Centre of Economic Development, Transport and the Environment, and from other responsible authorities or institutions, regarding the mining operator's accounts and the inspection report compiled upon the final inspection. The mining authority shall decide on the termination of the mining activity once the obligations of the mining operation relating to the closure have been substantially fulfilled in a manner that protects public and private interests.

Once a decision to terminate mining activity has become legally valid, the mining operator's right of use and right of possession of the mining area and the right of use and other rights towards the auxiliary area of the mine based on the Mining Act are terminated. If the areas have been used based on a redemption permit, the areas in question will be returned to the possession of the landowner, free of charge.

Closure and remediation under the environmental permit

The regulations regarding closure and remediation of an operation dealt with under the Environmental Protection Act and through the environmental permit process are also applicable to mining operations. The environmental permit includes terms regarding the closure of a mine, such as for the restoration of the environment and the prevention of emissions. Final closure and restoration activities will be confirmed in a closure plan, which is to be provided to the environmental permit authority for approval prior to the end of operations.

After-care measures

The operator of the mine shall remain responsible for monitoring the mining area and auxiliary area to the mine after the termination of mining activity, in compliance with the orders issued in the mining permit, or those in the decision to terminate mining activity, alongside the necessary corrective measures and the costs incurred therein. The operator is entitled to access the mining area and auxiliary area to the mine in order to fulfil these obligations. Similarly, the operator of the mine shall continue to be responsible for the necessary actions to prevent pollution, as well as for the monitoring and surveillance of the impacts of the closed operations and necessary after-care measures as regulated in the environmental permit or the permit approving the closure plan or separately by the permit authority.

4. Environmental

4.1 Principal Environmental Laws

Environmental issues are regulated by many different national environmental laws and policies. As a European Union member state, a considerable share of the Finnish environmental legislation and policies is based on the EU environmental policy and regulation, either as directly applicable EU regulations or through the implementation of EU directives.

The principal environmental laws affecting the mining industry include the Environmental Protection Act (nr 527/2014); the Water Act (nr 587/2011, vesilaki), which governs water-related construction projects and the use of water resources and the aquatic environment; the Waste Act (nr 646/2011, jätelaki), which governs waste management and littering, the prevention of waste generation, and the prevention of danger and harm to human health and the environment caused by waste; the Nature Conservation Act (nr 1096/1996, luonnonsuojelulaki), which governs nature and landscape conservation and management; the Land Use and Building Act (nr 132/1999, maankäyttö- ja rakennuslaki), which governs planning, building development and the use of land and water areas; and the Chemicals Act (nr 599/2013, kemikaalilaki), which governs the enforcement

of the European Union chemicals legislation and certain national obligations regarding chemicals.

4.2 Bodies of Environmental Competence

The competent permitting authorities for environmental permits relating to mining operations are the Regional State Administrative Agencies (aluehallintovirasto, AVI), which are charged with issuing environmental permits for activities with major environmental impacts, as well as all permits under the Water Act.

The competent environmental supervisory authorities in relation to mining operations are the regional Centres for Economic Development, Transport and the Environment, ELY Centre (elinkeino-, liikenne- ja ympäristökeskus, ELY-keskus), which supervise the compliance with the Environmental Protection Act and the environmental permit, for example. ELY Centres also act as contact authorities in impact assessments carried out in accordance with the Act on Environmental Impact Assessment Procedures, and issue justified statements in environmental impact assessments.

The main general authority to control environmental policy, draft environmental legislation and guide other authorities' work relating to environmental issues is the Ministry of the Environment (ympäristöministeriö).

Municipalities have a central role in land use planning, and wide discretionary powers to decide whether to approve or reject a plan. Municipalities also function as permit authorities for construction permits and other land use and building permits.

4.3 Environmental Obligations

Parties engaged in mining have the duty to prevent impact and to eliminate or minimise harmful environmental effects. The operator of a mine must have sufficient knowledge of the environmental impact, risks and mitigation measures of the activities at the mine and has an obligation to prevent pollution. Should the activities cause environmental pollution or a threat thereof, the operator must take the appropriate action without delay in order to prevent pollution or the threat thereof, or, if pollution has already occurred, to reduce it to a minimum. The best available technique shall be used in the operations. Best practices, fuels and raw materials shall be used in the operations in order to prevent pollution.

Under the Environmental Protection Act, the operator has a general obligation to prevent pollution, and is specifically prohibited from causing pollution of soil or groundwater. If the activities cause or may directly result in environmental pollution, the operator must take the appropriate action without delay in order to prevent pollution, or, if pollution has already resulted, to reduce it to a minimum. An operator whose operations have caused pollution of soil has an obligation to restore said polluted soil.

According to the fundamental environmental principle of ‘polluter pays’, any party whose activities have caused the contamination of soil or groundwater is required to restore said soil or groundwater to a condition that will not cause harm to health or the environment or represent a hazard to the environment.

Should operations of a mine result in the pollution of soil, groundwater or surface water, the polluter may be ordered to restore the polluted soil, groundwater or surface water based on the Environmental Protection Act and/or the Act on the Remediation of Certain Environmental Damages (nr 383/2009, laki eräiden ympäristövahinkojen korjaamisesta), and/or to compensate the injured party for the damage caused. Environmental liability is strict liability – ie, damages are to be compensated and restoration obligations may be ordered even if the pollution is not caused negligently or intentionally.

According to the Act on Compensation for Environmental Damage (nr 737/1994, laki ympäristövahinkojen korvaamisesta), compensation shall be paid for a loss defined as environmental damage, caused by activities carried out in a certain area and resulting from pollution of the water, air or soil, or caused by noise, vibration, radiation, light, heat or smell, or by other similar nuisance. Compensation shall be paid if it is shown that there is a probable causal link between the activities and the loss referred to above. Even if the loss has not been caused deliberately or negligently, liability for compensation shall lie with a person whose activity has caused the environmental damage or a person who is comparable to the person carrying out the activity. In addition, liability for compensation shall lie with a person to whom the activity that caused the environmental damage has been assigned, if the assignee knew or should have known about the loss or the nuisance or the threat thereof at the time of the assignment.

The operator is also liable for the closure measures as well as the after-care measures, monitoring and surveillance after the close down of the mine.

5. Miscellaneous

5.1 Special Rules or Taxes

According to the Mining Act, the permit holder must be either a private person who is resident within the European Economic Area, a Finnish corporation or foundation, or a foreign corporation or foundation with a branch office in Finland that is established under the laws of and has its domicile, central administration or headquarters in a country belonging to the European Economic Area.

There is no special mining or mineral tax regime for the mining industry in Finland.

Finnish resident companies are subject to Finnish corporate income tax on their worldwide income (ie, unlimited tax liability).

Foreign corporate entities have a limited liability to tax, so they pay income tax on their Finnish-sourced income only. If a foreign corporate entity has a permanent establishment in Finland, it must pay tax on all the income that can be attributed to that permanent establishment.

Finland has signed tax treaties with some 70 countries. Existing tax treaties are based on the Model Tax Convention of the Organisation for Economic Co-operation and Development (the OECD). According to tax treaties, a branch or a mine, quarry or any other place for extraction of natural resources creates a permanent establishment in Finland.

5.2 Restricted or Excluded Zones

Restricted areas of use

Neither an exploration nor a gold panning permit shall be granted for the following areas:

- (a) a public cemetery or an area belonging to a private grave or within 50 metres of these;
- (b) (i) an area used by the defence forces, or any area controlled by the Border Guard where movement is restricted or prohibited, or an area within 100 metres of such an area; (ii) an area where movement is restricted or access denied to outsiders; (iii) a traffic route or passage in public use; (iv) an area within 150 metres of a building intended for residential or work use, or comparable space, and any adjoining private yard, or the site for such a building, if a permit required for a building referred to in the Land Use and Building Act has been granted for it and construction has begun; (v) an area in horticultural use; (vi) an area within 50 metres of a public building or utility, a power line with a voltage of over 35,000 volts or a transformer station; and (vii) any other area, corresponding to items (i)–(vi), designated for special use;
- (c) a street area or market place referred to in the Land Use and Building Act, a road area of a public highway, an airport or another area in aviation use, a public railway area, a canal used for public traffic or another such traffic area, or an area within 30 metres of any of these traffic areas, unless provisions concerning a larger exclusion area are laid down in, or pursuant to, the relevant Act;
- (d) an area that has previously been an exploration area, unless three years have elapsed since the expiry or cancellation of the exploration permit;
- (e) an area that has previously been a mining area, unless three years have elapsed since the decision concerning the termination of mining activities became legally valid;

- (f) an area belonging to an exploration area, mining area, or gold panning area, or for which reservation notification has been made;
- (g) an area where activities in accordance with the application would impede the implementation of a legally binding plan; and
- (h) an area concerning which the local authority opposes the granting of a permit, for a reason concerning land planning or other good cause related to land use, unless there is a specific reason for granting the permit.

However, an exploration permit and gold panning permit may be granted for an area referred to in subsection b)-e) above through the consent of the authority or institution that is competent in the matter, or the consent of the holder of the appropriate rights.

A building or other facility intended for residential purposes or work use, existing for mining activity or gold panning, located in the mining area or gold panning area shall not preclude the granting of a permit.

The mining area and the auxiliary area to a mine shall not be located in an area set out in subsections b)-f) above. However, a mining permit may be granted regardless of an impediment referred to in subsections b)-e) above if either of the following applies: 1) the consent of the authority or institution competent in the matter has been obtained, or that of the holder of appropriate rights; 2) the mining area cannot be otherwise implemented as a continuous area of a size and shape that facilitates compliance with requirements concerning safety, the location of mining activities, and mining technology, and the area in question is not any of the ones referred to in subsections a), b) (i) or c) above.

Land use planning

The relationship of the mining area and any auxiliary area to other usage of land shall be explained. Mining activity shall be based on a legally binding plan in accordance with the Land Use and Building Act, or, in view of the impact of the mining activity, the matter shall be otherwise sufficiently explored in co-operation with the local authority, Regional Council, and Centre for Economic Development, Transport and the Environment. Provisions concerning the legal impact of a land use plan are laid down in the Land Use and Building Act. The restrictions included in land use planning may prohibit mining operations in certain areas.

Sami Homeland, Skolt area and special reindeer herding area

An exploration permit, mining permit, or gold panning permit must not be granted if activities under the permit meet the following conditions:

- alone or together with other corresponding permits and other forms of land use would, in the Sami Homeland,

substantially undermine the preconditions for engaging in traditional Sami sources of livelihood or otherwise to maintain and develop the Sami culture;

- would substantially impair the living conditions of Skolts and the possibilities for pursuing a livelihood in the Skolt area; or
- in a special reindeer herding area; or would cause considerable harm to reindeer herding.

However, a permit may be granted regardless of an impediment referred to above if it is possible to remove such impediment through permit regulations.

Natura 2000 areas

The areas included in the European Community's Natura 2000 network are subject to specific limitations on allowed operations, as set out in the Finnish Natura Conservation Act. If a project or plan, either individually or in combination with other projects and plans, is likely to have a significant adverse effect on the ecological value of a site included in the Natura 2000 network, and the site has been included in, or is intended for inclusion in, the Natura 2000 network for the purpose of protecting this ecological value, the planner or implementer of the project is required to conduct an appropriate assessment of its impacts ("Natura Assessment"). The same correspondingly applies to any project or plan outside the site which is likely to have a significantly harmful impact on the site.

The mining authority shall see that the Natura Assessment is carried out, and shall thereafter request an opinion on the Natura Assessment from the ELY Centre and the authority in charge of the site in question. No authority is empowered to grant a permit for the implementation of a project, or to adopt or ratify a plan, if the assessment procedure indicates that the project or plan would have a significant adverse impact on the particular ecological values for the protection of which the site has been included in, or is intended for inclusion in, the Natura 2000 network. In this case, a permit can only be granted if the Government decides that said project or plan must, in the absence of alternative solutions, be carried out for imperative reasons of overriding public interest. Furthermore, where a site hosts a priority natural habitat type referred to in Annex I of the Habitats Directive (92/43/ETY), or a priority species referred to in Annex II, a further precondition for granting a permit or adopting or ratifying a plan is that a reason relating to human health or public safety, or to beneficial consequences of primary importance for the environment, or any other imperative reason of overriding public interest so demands. In the latter case, an opinion shall be requested from the European Commission.

Nature conservation areas

Any action altering the natural surroundings is prohibited in a national park or strict nature reserve. Thus, eg, the

extraction of sand and stone materials and minerals, and any action that damages the soil or bedrock, the removal or destruction of fungi, trees, bushes and other plants or parts thereof and any other action that may have a detrimental impact on the natural conditions and the landscape, or on the preservation of fauna and flora, is expressly prohibited.

Geological surveys and prospecting is allowed in a national park or strict nature reserve only with permission from the authority or agency in charge of the site, provided that the conservation objectives of the site are not jeopardised.

Also, the protection of animal and plant species including but not limited to important resting places of protected species, appropriately marked trees hosting the nest of a protected bird species or trees hosting a large bird of prey may restrict exploration or mining activities.

5.3 Rights of Indigenous or Ethnic Communities

The activities referred to in the Mining Act shall be adapted in the Sami Homeland, so as to secure the rights of the Sami as an indigenous people. The adaptation of the exploration and mining activities referred to in the Mining Act shall pay due attention to the promotion of the living conditions of the Skolt population and Skolt area, opportunities for making a living, and the preservation and promotion of the Skolt culture.

In the Sami Homeland, the permit authority shall – in co-operation with the Sami Parliament, the local reindeer owners' associations, the authority or institution responsible for management of the area, and the applicant – establish the impacts caused by activity in accordance with the exploration permit, mining permit, or gold panning permit on the rights of the Sami as an indigenous people to maintain and develop their own language and culture, and shall consider measures required for decreasing and preventing damage. In such a case, the following shall be taken into account:

- any corresponding permits that are valid in the vicinity of the area referred to in the application;
- the areas that are key to the rights of the Sami as an indigenous people to which the application pertains; and
- other forms of usage of areas interfering with the rights of the Sami as an indigenous people in the area that the application involves, and in its vicinity.

The same provisions apply to projects implemented outside the Sami Homeland that are of considerable significance as regards the rights of the Sami as an indigenous people.

In the Skolt area, the permit authority shall request a statement from a Skolt village meeting concerning assessment of the impacts of activity under the permit on the sources of livelihood and living conditions of the Skolt people.

In a special reindeer herding area, the permit authority shall, in co-operation with the local reindeer owners' associations, assess the damage caused to reindeer herding through activity under the permit.

In addition, the notifications to be made by the permit holder under the Mining Act to landowners are generally required to be made also to the Sami Parliament, the Skolt village meeting and the local reindeer owners' association(s), if applicable.

Furthermore, an exploration permit, mining permit, or gold panning permit must not be granted if activities under the permit:

- alone or together with other corresponding permits and other forms of land use, would, in the Sami Homeland, substantially undermine the preconditions for engaging in traditional Sami sources of livelihood or otherwise to maintain and develop the Sami culture;
- would substantially impair the living conditions of Skolts and the possibilities for pursuing a livelihood in the Skolt area; or
- in a special reindeer herding area, would cause considerable harm to reindeer herding.

However, a permit may be granted regardless of an impediment referred to above if it is possible to remove such impediment through permit regulations.

5.4 Unilateral Termination of a Mining Title

Expiry of mining permit

The permit authority shall decide that the mining permit will expire if the permit-holder has not initiated mining activity within the time limit specified in the permit, or the preparatory work to indicate that the permit holder is seriously aiming towards actual mining operations. The permit authority shall also decide that the mining permit will expire if mining activities have been interrupted because of a factor dependent on the permit-holder continuously for a minimum of five years, or if mining activities can be considered to have actually ended. The matter may be raised by the permit authority on its own initiative, by the local authority, or by a party suffering damage.

However, the permit authority may postpone the expiry of the mining permit, twice at the most, and specify a new deadline for commencing mining activity or continuing operations. The expiry of a permit can be postponed for a maximum of ten years in total. The mining permit-holder shall submit an application to the permit authority prior to the expiry of the mining permit, stating a reason for the granting of a time limit and setting forth a plan for commencing or continuing mining activity. A prerequisite for approval of the application is that the reason presented by the applicant must be considered justified and the plan suf-

ficiently detailed, and that the decision does not cause undue inconvenience to public or private interests.

Furthermore, the permit authority shall decide that the mining permit will expire if the mining area does not belong to the permit-holder or if the permit-holder has not gained possession of it within five years of the granting of the permit, or if the permit-holder submits an application concerning this.

Alteration of mining permit

The mining authority shall alter a mining permit, either on its own initiative or upon application by the relevant authority supervising the securing of the public interest in its field or a party suffering damage, if the activities cause a consequence prohibited by the Mining Act, or the detrimental impacts of the activities deviate substantially from the assessments made during permit consideration.

Cancellation of mining permit

The permit authority may cancel a mining permit in the following circumstances:

- if incorrect or incomplete information has been given in the application or appendices thereto, such that it has essentially affected the conditions set for granting a permit or the permit consideration in other ways;
- if the permit holder no longer meets the requirements for the granting of a permit; or
- if the permit holder has materially neglected or violated the obligations, restrictions, or permit regulations laid down in the Mining Act.

If the deficiencies, violations or neglect can be corrected or are insignificant, the permit authority shall set a time limit for the permit-holder in question to rectify the defect, violation or neglect, before making a decision based on the second or third subsections above.

5.5 Taxes or Royalties

The corporate income tax rate in Finland is 20%.

Unless bilateral tax treaties with Finland set a lower percentage or the income is exempt from tax withholding, the payer of dividends, interest or royalties to nonresidents must withhold tax at 20%.

Under Directive 2003/49/EEC, there is no tax on royalty payments to associated companies.

Under Directive 90/435/EEC (the Parent-Subsidiary Directive), there is no tax on dividends if the beneficiary company owns at least 10% of a payer company.

The standard VAT rate applicable to the sale of products and services (including exploration or mining permits, if sold separately and not as part of a business) is 24%.

Real estate property tax is paid by the owner of the real estate (not applicable to a holder of an exploration or mining permit) to the municipality where the real estate is located. The Act on Real Estate Taxation sets the limits (currently between 0.93% and 2.00%) within which each municipality may set their own real estate tax rates.

Transfer tax for transferring ownership of real estate property is 4%, shares in housing companies and shares in real estate companies is 2%, and other shares 1.6%.

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