



SÁMEDIGGI SAMETINGET

The Sami Parliament's mineral guide

for exploration work and operations
relating to mineral resources



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In June 2010, the Sami Parliament agreed on a mineral guide for how the Sami Parliament and minerals companies can relate to each other in connection with mineral operations in Sami areas. This mineral guide aims for agreements to be entered into between the Sami Parliament and companies regarding exploration work and plans to apply for operating licences.

The Sami Parliament's goal is for business operations relating to mineral resources in traditional Sami areas to benefit and directly strengthen and develop Sami culture and local communities. Such operations must also take place in co-existence with, and not displace, traditional Sami industries and traditional Sami culture-based harvesting. The Minerals Act, which the Norwegian parliament (Storting) passed on 10 June 2009, does not safeguard these considerations and did not safeguard the obligations that the State has to the Sami as an indigenous people in accordance with human rights. Therefore the Sami Parliament could not give its consent to the Act. In order for the Sami Parliament to nonetheless have an opportunity to give its approval to mineral operations in Sami areas, the Sami Parliament has issued its own guide, which will form the basis for compliance with the Sami rights pursuant to international law concerning indigenous peoples and minorities.

With the mineral guide, the Sami Parliament is making conditions suitable for an overall consideration of all affected Sami interests in the case of mineral operations. This applies to the need which traditional Sami industries and users of uncultivated land have to secure their land basis and Sami society's need for jobs and value creation based on a new utilisation of the resources.

In that the Minerals Act does not establish the predictability in relation to Sami rights and interests that a capital-intensive mineral industry requires, the Sami Parliament's mineral guide will be an important contribution to achieve this. The mineral guide clarifies the Sami Parliament's role in exploration, extraction and operations relating to minerals throughout the traditional Sami area.

Yours faithfully

Egil Olli

President of the Sami Parliament

Mineral guide for exploration work and operations relating to mineral resources

1 Objective

- 1.1 This guide is intended to make conditions suitable for Sami culture, business and social life to be emphasised and safeguarded in plans relating to the use of mineral resources.
- 1.2 The guide states the Sami Parliament's expectations regarding companies and forms of cooperation with companies that want to establish agreement with the Sami Parliament on actual exploration work, pilot extraction and plans to apply for an operating licence for mineral resources.
- 1.3 The guide is intended to ensure compliance with the rights which the Sami have in accordance with international law regarding indigenous peoples and minorities.

2 Scope

- 2.1 The guide is to be used in the case of actual exploration work, pilot extractions and plans to apply for an operating licence for metals.
- 2.2 The guide is to be used for industrial minerals, building raw materials and natural stone in traditional Sami areas where Sami land rights are not recognised and where Statskog SF currently administers the ground.
- 2.3 The guide applies to the traditional Sami areas which are covered by Finnmark, Troms, Nordland and Nord-Trøndelag as well as the municipalities of Osen, Roan, Åfjord, Bjugn, Rissa, Selbu, Meldal, Rennebu, Oppdal, Midtre Gauldal, Tydal, Holtålen and Røros in the county of Sør-Trøndelag, Engerdal and Rendalen, Os, Tolga, Tynset and Follidal municipalities in the county of Hedmark and Surnadal, Rindal and Sunndal municipalities in the county of Møre and Romsdal.

3 Information on and assessments of Sami interests

- 3.1 A party that is granted an exploration permit pursuant to section 13 of the Norwegian Minerals Act shall prepare a report containing information on and assessments of the Sami interests that may be directly affected by actual exploration work and any pilot extraction pursuant to sections 19 and 20 of the Minerals Act.

- 3.2 A party that is granted an extraction permit pursuant to sections 29 and 30 of the Minerals Act shall prepare an impact analysis in accordance with chapters 4 and 14 of the Norwegian Planning and Building Act and the Sami Parliament's planning guide before submitting an application for an operating licence in accordance with section 43 of the Minerals Act.
- 3.3 When Statskog SF is considering entering into agreements regarding exploration for industrial minerals, building raw materials and natural stone, it should ensure that a report is prepared containing information on and assessments of the Sami interests that may be affected by exploration work, and if relevant by pilot extraction and operations.
- 3.4 The report and impact analysis that have been prepared are to form the basis for negotiations on the actual exploration work and operations respectively, cf item 4 of this guide.

4 Negotiations

- 4.1 Parties wishing to carry out actual exploration work and pilot extraction and parties wishing to apply for an operating licence pursuant to sections 13, 20 and 43 of the Minerals Act are to contact the Sami Parliament to agree on the holding of negotiations regarding this.
- 4.2 Separate negotiations are to be held for actual exploration work, for plans to apply for an extraction permit and for plans to apply for an operating licence. In the case of plans to apply for an extraction permit, a common document shall be prepared stating that negotiations are to be held prior to any application for an operating licence.
- 4.3 Separate consultations are to be held with Statskog SF if Statskog SF is considering entering into agreements with a company regarding exploration for, the pilot extraction of or operations relating to industrial minerals, building raw materials or natural stone.
- 4.4 The Sami Parliament may clarify participation in such negotiations with directly affected Sami interests. Following prior informed consent, the Sami Parliament may safeguard directly affected Sami interests in these negotiations.
- 4.5 A party that wishes to carry out work in accordance with item 4.1 of the guide may be asked to cover the actual costs of holding the negotiations.

5 Agreements, record and contents

- 5.1 An agreement regarding actual exploration work and agreement regarding pilot extraction may cover the scope, exploration period, activity dates, access, storage of equipment, etc, and measures to prevent harm or inconvenience to existing and traditional usage.
- 5.2 An agreement to apply for an operating licence may cover the extraction area, an extraction plan, plan of operations and the termination of the agreement if operations do not start within a certain period or are suspended for a lengthy period. The agreement may include measures to prevent harm or inconvenience to existing and traditional usage.
- 5.3 A record of the consultations with Statskog SF shall be prepared, stating whether the parties have reached agreement and if so what they have agreed shall be included in the option and operations agreements with the company.
- 5.4 Conditions regarding compensation to benefit Sami culture, business and social life in

the form of jobs, the strengthening of the Sami language, the development of expertise and capacity, etc, are to be considered.

- 5.5 Conditions regarding and schemes for a financial payment that comprises part of the utility value of exploration work and operations are to be considered.
- 5.6 A condition that the agreement is to be reviewed after a certain period of time may be stipulated. The agreement is to be reviewed before the licence is revised in accordance with section 43 of the Minerals Act.
- 5.7 If no agreement on the planned work and applications is entered into, a negotiation record is to be prepared and approved by the parties.

Comments on the mineral guide

Re. Item 1 Objective

- 1.1 This guide is intended to make conditions suitable for Sami culture, business and social life to be emphasised and safeguarded in plans relating to the use of mineral resources.
- 1.2 The guide states the Sami Parliament's expectations regarding companies and forms of cooperation with companies that want to establish agreement with the Sami Parliament on actual exploration work, pilot extraction and plans to apply for an operating licence for mineral resources.
- 1.3 The guide is intended to ensure compliance with the rights which the Sami have in accordance with international laws regarding indigenous peoples and minorities.

Item 1 states the mineral guide's objective. Item 1.1 is based on sections 1 and 2 of the Minerals Act. Section 1 of the Minerals Act states that the Act shall promote and ensure the socially responsible administration and use of mineral resources in accordance with the principle of sustainable development. Section 2 of the Minerals Act stipulates that the administration and use of mineral resources shall take account of value creation, the natural foundation of Sami Culture, the environment and subsequent use. Item 1.1 makes it clear that the objective of this guide is specifically to safeguard the interests of Sami culture, business development and social life.

Item 1.2 is an amendment compared to §1, third sub-paragraph of the discussion paper. Item 1.2 emphasises that this is the Sami Parliament's guide relating to the Sami Parliament's expectations regarding companies that want to carry out exploration work or operations related to mineral resources in Sami areas. The focus is on plans that are of direct importance to physical encroachments on nature. The guide does not, therefore, have a direct focus on applications for an extraction permit, as was the case in the discussion paper. An extraction permit can more precisely be said to be a priority right to possible extraction work and not a right to actual extraction. This is further made clear by the fact that the guide states how a collaboration with companies must be carried out if companies want to reach agreement with the Sami Parliament on actual exploration work and plans to apply for an operating licence. From item 1.2, it follows that the Sami Parliament is not authorised to order companies to either coope-

rate or agree with the Sami Parliament on their activities in traditional Sami areas. Item 1.2 also shows that this guide does not mean that the Minerals Act and other Acts do not have to be complied with. The procedural rules and permits that follow from Acts and the prevailing law must naturally be complied with.

Item 1.3 stipulates that the guide is intended to ensure that mineral operations in Sami areas comply with international law rules on indigenous peoples and minorities. Since the Minerals Act is not in accordance with international law, this guide is a way of strengthening the foundation for the practical implementation of international law regulations in the case of plans for mineral activities. Especially relevant international law provisions are the UN International Covenant on Civil and Political Rights, articles 1 and 27, the ILO Convention, articles 6, 7 and 15, and the Declaration on the Rights of Indigenous Peoples, articles 3, 19 and 32. Even if companies comply with Norwegian law, this does not relieve them from their independent duty to find out about and comply with the indigenous peoples' rights when they want to operate in Sami areas. If companies choose not to have direct contact with the Sami Parliament or to agree with the Sami Parliament before starting their operations, they do so subject to the financial, ethical and political risks that this entails.

Re Item 2 Scope

- 2.1 The guide is to be used in the case of actual exploration work, pilot extractions and plans to apply for an operating licence for metals.
- 2.2 The guide is to be used for industrial minerals, building raw materials and natural stone in traditional Sami areas where Sami land rights are not recognised and where Statskog SF currently administers the ground.
- 2.3 The guide applies to the traditional Sami areas which are covered by Finnmark, Troms, Nordland and Nord-Trøndelag as well as the municipalities of Osen, Roan, Åfjord, Bjugn, Rissa, Selbu, Meldal, Rennebu, Oppdal, Midtre Gauldal, Tydal, Holtålen and Røros in the county of Sør-Trøndelag, Engerdal and Rendalen, Os, Tolga, Tynset and Folldal municipalities in the county of Hedmark and Surnadal, Rindal and Sunndal municipalities in the county of Møre and Romsdal.

Item 2.1 stipulates that the substantive scope of the mineral guide is that which is defined as minerals owned by the State in section 7 of the Minerals Act. The Sami Parliament has in principle stated that the resources above and below the ground in Sami areas also belong to the Sami people. However, the Sami Parliament has not opposed the use of a legal system that differentiates between metals with a specific weight of 5 grams/cm³ or more, which the State exercises the right of ownership to, and other minerals which the landowner has the right of ownership to and which are often divided into the main categories of industrial minerals, building raw materials and natural stone. The discussion paper used the concept of minerals that the State claims it has the right of ownership to. It is regarded as briefer and more expedient to use the concept of metals versus industrial minerals, building raw materials and natural stone. Item 2.1 stipulates that the mineral guide is to be used in the case of actual exploration work. This means that the guide is not applicable to applications for an exploration permit, but becomes relevant when this exploration permit entails physical activity or activity that might disturb or prevent existing or traditional business. The mineral guide is also to be used prior to applications when a permit will directly lead to a physical

encroachment on nature, as will be the case for a permit to carry out actual exploration work (section 13 of the Minerals Act, cf section 17), an extraction permit (cf section 20 of the Minerals Act) and an operating licence (section 43 of the Minerals Act). This is new compared to the discussion paper, which placed great emphasis on applications for an extraction permit pursuant to section 29 of the Minerals Act.

Item 2.2 is new compared to the discussion paper. Sami land rights are not recognised outside Finnmark. This will first take place as a result of further work on the proposals of the Sami Law Committee II. The Sami Parliament is aware that, as the land administrator, Statskog SF enters into agreements with minerals companies regarding exploration for and the extraction of/operations relating to industrial minerals, building raw materials and natural stone (minerals owned by a landowner). These agreements may be of direct importance to the Sami people. As a state-owned enterprise, Statskog SF is obliged pursuant to the consultation agreement between the government and Sami Parliament to hold consultations regarding such agreements. So it is reasonable to allow this guide to also cover the interaction with Statskog SF, which administers minerals in areas where Sami land rights are not yet recognised. The more specific guidance items will show which of them are to be used in relation to Statskog SF.

Item 2.3 defines what is to be understood as the traditional Sami area. The geographical area is the same as that covered by issues linked to the substantive cultural basis in 'Procedures for consultations between state authorities and the Sami Parliament'. In addition, it is the same area as is defined in the comments on section 5-4, third subsection of the Planning and Building Act regarding the Sami Parliament's authority to object. Within the traditional Sami area, not all mineral operations will necessarily be of importance to Sami culture. However, this must be assessed for each area.

Re Item 3 Information on and assessments of Sami interests

- 3.1 A party that is granted an exploration permit pursuant to section 13 of the Minerals Act shall prepare a report containing information on and assessments of Sami interests that may be directly affected by actual exploration work and any pilot extraction pursuant to sections 19 and 20 of the Minerals Act.
- 3.2 A party that is granted an extraction permit pursuant to sections 29 and 30 of the Minerals Act shall prepare an impact analysis in accordance with chapters 4 and 14 of the Norwegian Planning and Building Act and the Sami Parliament's planning guide before submitting an application for an operating licence in accordance with section 43 of the Minerals Act.
- 3.3 When Statskog SF is considering entering into agreements regarding exploration for industrial minerals, building raw materials and natural stone, it should ensure that a report is prepared containing information on and assessments of the Sami interests that may be affected by exploration work, and if relevant by pilot extraction and operations.
- 3.4 The report and impact analysis that have been prepared are to form the basis for negotiations on the actual exploration work and operations respectively, cf item 4 of this guide.

Item 3.1 precisely defines and clarifies the provision resulting from section 17, second subsection of the Minerals Act, but with the difference that it applies to the entire

traditional Sami area and is not just restricted to Finnmark. A report containing information on and assessments of the Sami interests that may be affected must be prepared by the party carrying out the exploration work and/or the applicant for an extraction permit and operating licence. The scope of the report is not equivalent to that of an impact analysis pursuant to the Planning and Building Act's provisions. However, the more thorough and concrete the report is the better basis it will provide for negotiations pursuant to item 4 of the mineral guide. What Sami interests are and the considerations that such a report must seek information on and assess are specified in the Sami Parliament's planning guide to ensure the natural foundation of Sami culture, business and social life.

Item 3.2 is new compared to the discussion paper. This states that impact analyses in accordance with the Planning and Building Act's provisions and regulations are to form the basis for negotiations on the operations and use of land. That for which an impact analysis is to be prepared, the issues to be covered and the way in which the impact analyses are to be conducted follow from the regulation regarding an impact analysis and the Sami Parliament's planning guide to ensure the natural foundation of Sami culture, business and social life in the case of planning in accordance with the Planning and Building Act's planning part. In Finnmark, the Sami Parliament's guidelines for assessing Sami interests in the case of a change in the use of meahcci/uncultivated land stated in section 4 of the Finnmark Act shall also apply. The contents of the guidelines stipulated in section 4 of the Finnmark Act and the Sami Parliament's planning guide are coordinated. The change compared to the discussion paper - that the impact analysis is to form the basis for negotiations on operations – is a result of there being no negotiations prior to the application for an extraction permit since the extraction permit does not directly lead to any physical encroachment on nature.

Item 3.3 is new compared to the discussion paper. This item states an expectation that Statskog SF will ensure there is a basis consisting of information on and assessments of Sami interests when it is considering entering into agreements regarding exploration work, pilot extraction and operations relating to minerals that it administers. In that Statskog SF is obliged to hold consultations regarding such agreements, it is assumed to also prepare an assessment basis for real consultations/negotiations with the Sami Parliament. Both section 110a of the Norwegian Constitution and sections 2 and 3 of the Human Rights Act also state that the Sami culture's interests are to be assessed and placed emphasis on in any decisions or measures that may affect the Sami.

Item 3.4 clarifies that reports containing information on and assessments of Sami interests and impact analyses pursuant to the Planning and Building Act's provisions will be the key basic documents for reaching agreement on mineral activities.

Re Item 4 Negotiations

- 4.1 Parties wishing to carry out actual exploration work and pilot extraction and parties wishing to apply for an operating licence pursuant to sections 13, 20 and 43 of the Minerals Act are to contact the Sami Parliament to agree on the holding of negotiations regarding this.
- 4.2 Separate negotiations are to be held for actual exploration work, for plans to apply for an extraction permit and for plans to apply for an operating licence. In the case of

- plans to apply for an extraction permit, a common document shall be prepared stating that negotiations are to be held prior to any application for an operating licence.
- 4.3 Separate consultations are to be held with Statskog SF if it is considering entering into agreements with a company regarding exploration for, the pilot extraction of or operations relating to industrial minerals, building raw materials or natural stone.
 - 4.4 The Sami Parliament may clarify participation in such negotiations with directly affected Sami interests. Following prior informed consent, the Sami Parliament may safeguard directly affected Sami interests in these negotiations.
 - 4.5 A party that wishes to carry out work in accordance with item 4.1 of the guide may be asked to cover the actual costs of holding the negotiations.

Item 4.1 stipulates that parties wishing to carry out actual exploration work and pilot extraction and parties wishing to apply for an operating licence are to contact the Sami Parliament to agree on the holding of negotiations on the desired activity. The Sami Parliament's opposite party in the negotiations is the company that will carry out the actual exploration work and pilot extraction and the company that is planning to apply for an operating licence. If a company takes over another company's exploration permit or operating licence, it is assumed that new negotiations must be held. These may naturally be based on agreements with the previous holder of the exploration permit or operating licence. It is assumed that work can only be carried out and applications can only be submitted after an agreement has been entered into between the parties, cf item 5.1. Directly affected Sami interests may also take part in the negotiations. Directly affected Sami interests are understood to be a group or gathering of users, such as a *siida*, regional society or district. Individuals are not included in this category. The second point in item 4.1 is new compared to the discussion paper. This point is a result of negotiations being moved from the extraction permit stage to the operating licence stage. To the Sami Parliament, it is nonetheless of importance that it is clear to both parties even at the stage when an application is being made for an extraction permit that negotiations are to be held regarding an operating licence. If this were not the case, the Sami Parliament would have relinquished its opportunity pursuant to section 30 of the Minerals Act to oppose the award of an extraction permit.

Item 4.2 clarifies that separate negotiations are to be held and agreements entered into regarding actual exploration work, pilot extraction and plans to apply for an operating licence. This complies with the Minerals Act's structure and priority system. Existing and traditional industries will have differing levels of activity and efficiency when it comes to actual exploration work, pilot extraction and operations. In addition, in most cases it will be such that actual exploration work does not lead to plans to apply for an operating licence and, if operations become relevant, the exploration work that has been carried out naturally sets the terms for how these are to be carried out. It is also often the case that it is not the same company that is responsible for the actual exploration work and for the later operations. All this makes it most expedient to have separate negotiations on the various activities.

Item 4.3 is new compared to the discussion paper. This item makes clear Statskog SF's duty to hold consultations pursuant to the agreement between the Government and the Sami Parliament regarding 'Procedures for consultations between state authorities and the Sami Parliament'. According to this item, there are thus no direct negotiations with the company that wants to explore for or have operations relating to minerals administered by Statskog SF. The negotiations here are with the state-owned enterprise

that administers rights that are not recognised as belonging to the Sami. Item 4.3 uses the concept of consultation. This is because the item directly relates to the consultation agreement. This does not mean that it is not just as crucial to the Sami Parliament to reach agreement with Statskog SF as it is to reach agreement with companies that want to have metals operations.

Item 4.4 is slightly different to §4, third paragraph of the discussion paper. While the discussion paper intended the Sami Parliament to be responsible for clarifying whether other parties are to participate in the negotiations, it is now stated that the Sami Parliament may clarify this. It will thus to a larger extent be up to the companies and Statskog SF whether they want the Sami Parliament to contribute to such a coordination or whether they wish to do this themselves, and if relevant whether they want to negotiate separately with the Sami Parliament and directly affected Sami interests. There is nonetheless reason to warn against processes that may lead to a “divide and conquer” situation between the negotiating parties. In some circumstances, it may be desirable and expedient for the Sami Parliament, as the Sami elected body, to also safeguard directly affected Sami interests and local communities in the negotiations. If this is to take place, the group or gathering of users must have given their informed consent to the Sami Parliament safeguarding their interests.

Item 4.5 is also slightly different to §4, fourth paragraph of the discussion paper. While the discussion paper stated that the Sami Parliament was to be able to impose a fine to ensure that negotiations were held, the guide now states that those that wish to conduct actual exploration work and plan to apply for pilot extraction, an extraction permit or an operating licence for metals are urged to cover the direct costs of holding negotiations. It is assumed that the companies will benefit considerably from negotiations being held in a confidence-creating and efficient manner, which often means there is a need for capacity for this. The coverage of such costs will primarily be of interest to directly affected Sami interests and to a lesser extent to the Sami Parliament. It is considered to be important that there is openness regarding and public access to the way in which such costs are covered.

Re Item 5 Agreements and records

- 5.1 An agreement regarding actual exploration work and agreement regarding pilot extraction may cover the scope, exploration period, activity dates, access, storage of equipment, etc, and measures to prevent harm or inconvenience to existing and traditional usage.
- 5.2 An agreement to apply for an operating licence may cover the extraction area, an extraction plan, plan of operations and the termination of the agreement if operations do not start within a certain period or are suspended for a lengthy period. The agreement may include measures to prevent harm or inconvenience to existing and traditional usage.
- 5.3 A record of the consultations with Statskog SF shall be prepared, stating whether the parties have reached agreement and if so what they have agreed is to be included in the option and operations agreements with the company.
- 5.4 Conditions regarding compensation to benefit Sami culture, business and social life in the form of jobs, the strengthening of the Sami language, the development of expertise and capacity, etc, are to be considered.

- 5.5 Conditions regarding and schemes for financial remuneration that comprises part of the utility value of exploration work and operations are to be considered.
- 5.6 A condition that the agreement is to be reviewed after a certain period of time may be stipulated. The agreement is to be reviewed before the licence is revised in accordance with section 43 of the Minerals Act.
- 5.7 If no agreement on the planned work and applications is entered into, a negotiation record is to be prepared and approved by the parties.

Item 5.1 deals with what agreements on actual exploration work and the pilot extraction of metals may cover. In addition to agreements on how activities may be carried out, such agreements may also cover measures which prevent or remedy harm or inconvenience to existing and traditional use of the area.

Item 5.2 deals with what operating licence agreements cover as regards the size of the area, plan of operations and termination of the agreement if operations are not started up. This item of the guide states that an agreement regarding an application for an operating licence is to be arrived at before an application is sent to the Directorate of Mining and before comments are invited on the proposed land-use plan. This is because the processing of the operating licence application is usually coordinated with the plan clarification pursuant to the Planning and Building Act and any agreements with the landowner and those holding rights of use.

Item 5.3 is new compared to the discussion paper. This precisely defines Statskog SF's duty to consult that follows from the 'Procedures for consultations between state authorities and the Sami Parliament'. This stipulates that the parties are to try to reach consensus that is not to be set out in the form of an agreement but instead in the form of a record. To the extent that no agreement is reached, this must also be recorded. Contact here is not with the company directly but with the state-owned enterprise that administers the minerals. If the agreement reached by the Sami Parliament and Statskog SF cannot be achieved in Statskog SF's negotiations with the company, Statskog SF is expected to return to the Sami Parliament for renewed consultations. Another possibility is for Statskog SF and the Sami Parliament to hold consultations to reach agreement on some overarching principles which must form the basis for Statskog SF's administration of industrial minerals, building raw materials and natural stone.

Item 5.4 deals with conditions of a compensatory nature when measures may lead to harm or inconvenience to or the repression of Sami culture. This item corresponds to the provision in §7, third sub-paragraph, cf §4, second sub-paragraph, of the Sami Parliament's guidelines for changes in the use of uncultivated land in Finnmark, cf section 4 of the Finnmark Act. The great importance of mineral operations to society must be compared with the responsibility one has to safeguard Sami culture. Plans which make it impossible or significantly more difficult to maintain Sami culture in the area are under no circumstances permitted according to international law. According to international law, a measure that entails villages and local communities being moved also cannot be implemented without the express prior informed consent of those affected and the Sami Parliament. In cases where it may be disputed or unclear whether plans or measures will lead to the exercise of Sami culture in the area being impossible, or where it is clear that the negative consequences for Sami culture are considerable, measures of a compensatory nature may be conditions which allow consent to be given to the plan. The scope of such conditions will be linked to the scope of the measure

and its effects on Sami culture, business development and social life. The opportunity Item 5.5 must be considered in connection with item 5.4 of the mineral guide. Conditions concerning a financial payment that comprises part of the utility value in the case of extraction and operations must always be considered. The size of such a payment will depend on the scope of the activities and the effects that such activities have on Sami culture and communities, especially those that are directly affected. The payment will also depend on which other measures of a compensatory nature the parties can agree on pursuant to item 5.4 of the guide. Item 5.5 also means that the parties may agree on financial payment schemes. This means a large degree of flexibility regarding how a financial payment is to be determined, utilised and organised. This in itself may be a negotiation issue. Schemes which entail the establishment of new enterprises or institutions must be approved by the Sami Parliament in plenum. Under any circumstances, it is to be assumed that such schemes comply with legal frameworks and that there is transparency with regard to what they entail. Those who are directly affected by mineral operations, who exercise forms of collective use of the area in which a new enterprise is to be established and who in some other way are significantly affected by the activities from a business, environmental, cultural or social point of view, such as siida, regional associations and suchlike, will be those that such a payment is primarily to benefit.

Item 5.6 makes it clear that further conditions regarding a review of the agreement may be stated in the agreement. This has been included so that the agreement may take into account any conditions which the Directorate of Mining includes in its operating licences in accordance with section 43. Pursuant to this provision, the Directorate of Mining may stipulate a time limit for the operating licence or a requirement that it is to be reviewed after a certain time. The Directorate of Mining may also require a review of the licence every 10 years irrespective of that stated in the licensing conditions. The opportunity to review agreements is also based on the need to change plans of operations as a result of clear changes to the assumptions on which the extraction and operations are based.

Item 5.7 makes it clear that if negotiations do not result in the entry into of an agreement to carry out further activities linked to the mineral resources, then a negotiation record is to be prepared and approved by the parties. This is so that the negotiation process is documented, can be subsequently accessed by the public and is available if new initiatives relating to the same deposits in the same area should later arise.



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