

BILL TO AMEND MINING CODE, LAW NO. 21,420, AND OTHER LEGAL PROVISIONS RELATED TO THE MINING SECTOR IS SUBMITTED

Background

On November 23, 2022, the President of the Chilean Republic submitted to the National Congress a bill amending the Mining Code, Law No. 21,420 and other legal provisions related to the mining sector (the "Bill"). Its purpose is to address and resolve the inconsistencies and gaps contained in Law No. 21,420, as well as to adjust and improve several provisions of the Mining Code, the Constitutional Organic Law on Mining Concessions and Decree Law No. 3,525, which creates the National Geology and Mining Service, in order to generate a more harmonious regulatory statute in accordance with the practical reality of mining in our country.

Main amendments proposed

1.- Geological Information

- The timing and manner in which the obligation of the mining concessionaire to submit basic geological information (the "Information") to the National Geology and Mining Service ("Sernageomin") must be fulfilled is specified. The Regulations of the Mining Code ("the Regulations") shall detail the deadlines and conditions for compliance with this obligation.
- The Information to be provided by mining concessionaires who have carried out advanced exploration activities will be confidential for a period of 3 years, given its strategic and commercially sensitive nature for its owner.
- In case of non-compliance with the Information submission obligation, the amount of the fine is increased to 100 UTA^[1] (approximately USD 80,000), which can be doubled if Sernageomin requires the Information and it is not provided, along with disqualifying the mining concessionaire from accessing the benefit of the reduced mining license.
- The existing procedure for the submission of general information

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obtained from basic geological exploration work under Decree Law No. 3,525 is repealed to avoid duplication of procedures.

2.- Exploration Mining Concession

- The mining concessionaire is entitled to request the extension of exploration mining concessions for an additional period of up to 4 years, provided that the requirements established by law are met.
- The holder of an exploration mining concession shall be prohibited from acquiring, by himself or through an intermediary, a new exploration mining concession overlapping, in whole or in part, the area covered by the previous exploration mining concession, from the date of submission of his application until one year after the expiry of the concession. As a new penalty for contravention of this prohibition, the offender holder shall lose the preference to constitute an exploitation mining concession in the area covered by the exploration mining concession.
- A third party who denounces a contravention of the above prohibition and obtains a judgment declaring it to be so, may file a petition for all or part of the land covered by the denounced application, taking advantage of the date of filing of said application, if the other requirements established by law for this purpose are met.

3.- Exploitation Mining Concessions

- The so-called "exploitation claim by sight" ("manifestación por vistas") is eliminated.

4.- Annual Mining License

- In order to extend the benefit of the reduced mining license to the advanced geological exploration activities of an exploitation mining concession, the concept of "mining site" (of the Mining Safety Regulations) is changed to "mining operation" (of the Mine Closure Law), which makes it possible to recognise as work, for the purposes of the reduction, mining activities from advanced geological exploration to the closure of the site.
- Sernageomin's obligation to publish the list of exploitation mining concessions subject to the payment of reduced mining licenses on January 15 of each year is eliminated.
- For the purposes of determining the gradual increase in the amount of the mining license for exploitation concessions that are not being

worked, the years in which the reduced mining license benefit was obtained shall not be counted.

- A third scenario for reduction of mining licenses is introduced for the small-scale mining segment.

5.- Change of Datum

- References to the SIRGAS datum with respect to U.T.M. coordinates in the Mining Code are deleted, leaving this matter to the Regulations.

- The procedure for changing the datum established in Law No. 21,420 is eliminated, accordingly the cause for expiry of mining concessions for failure to register the new coordinates in the SIRGAS datum is eliminated, as well.

- A rule of general application is included in the Mining Code regarding the procedure by which the transformation of the coordinates of the existing concessions will be carried out in case of a change of datum by the Regulations.

- It is provided that the registration of the new coordinates of mining concessions, in the event of a change of datum, will be done only in the National Registry of Mining Concessions kept by Sernageomin, thus facilitating the procedure and avoiding unnecessary costs.

6.- Other amendments

- It is proposed defining and approving the annual list of expert surveyors by an administrative act issued only by Sernageomin, prior the Ministry of Mining approval.

- It is proposed granting Sernageomin the authorities to make the publications mandated by the Mining Code on its institutional website.

Effective date, if the Bill is passed

- The provisions of the Bill would enter into force upon publication in the Official Gazette, with the exception of the following amendments which would enter into force on January 1, 2024:

- The repeal of the current procedure for the submission of general information obtained from basic geological exploration work established in Decree Law No. 3,525.; and

- The amendment of the Constitutional Organic Law on Mining Concessions regarding the extension of exploration mining

concessions' duration.

- In addition, the provisions of Law No. 21,420 would enter into force on January 1, 2024 (or, in the case of a change of datum, on the date on which the corresponding regulations are issued).
- A deadline is set for issuing the relevant regulations mandated by Law No. 21,420: January 1, 2024.
- Regarding the payment of the mining licenses corresponding to the first year of validity of Law No. 21,420, mining concessionaires will pay, as an exception, the amount applicable to the reduced mining license, that is, for the year 2025 mining concessionaires will pay 1/10 UTM^[2] (approximately USD 6.65) per full hectare.
- Exploration mining concessions whose validity expires during 2024 and whose holders wish to extend them for another period of up to 4 years, will be extended until December 31, 2024, so that holders can exercise the extension right, by submitting the required information within the first 6 months of 2024.
- Regarding the procedures for the award of mining concessions that are in process at the date of entry into force of Law No. 21,420, they shall continue to be processed under the provisions in force at the time of their initiation.

^[1] “Unidad Tributaria Anual” (“UTA”). Chilean annual unit of account for tax and penalty purposes, updated according to inflation. On November 2022, 1 UTA is approx. USD 800.

^[2] “Unidad Tributaria Mensual” (“UTM”). Chilean monthly unit of account for tax and penalty purposes, updated according to inflation. On November 2022, 1 UTM is approx. USD 66.5.-

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