

› Congress approved bill that modifies Law No. 21,420 and other mining regulations

On December 19, 2023, the Chilean Congress approved the bill that modifies Law No. 21,420, which amended the Mining Code as of January 1st, 2024; the Mining Code; the Constitutional Organic Law on Mining Concessions; and the law that creates the National Geology and Mining Service, (the “Bill”).

Main amendments introduced by the Bill

I. Geological Information

- 1 The Bill determines the time and manner in which the holder of a mining concession shall deliver basic geological information to the National Geology and Mining Service and increases to 100 annual tax units the fine for non-compliance, which can be doubled if such information is requested and not provided, together with preventing the holder of the mining concessions from applying for a reduced mining license.

II. Duration of exploration mining concessions

- 1 Pursuant to the amendments by Law No. 21,420, exploration mining concessions are valid for four years, without the possibility of extension. The Bill adds the possibility of requesting an extension of up to four additional years, provided certain conditions are met.
- 2 The holder of an exploration mining concession is banned from applying for a new one over all or part of the same area, as of the date of filing of the relevant claim and until one year after its expiration, whether by themselves or through a third party. The Bill penalizes the contravention of this prohibition with the loss of the preferential right to obtain an exploitation mining concession over the area.
- 3 Law No. 21,420 sets out a public action to denounce the contravention of this prohibition, and the Bill adds that the third party that obtains a favorable judicial ruling in so doing can apply for an exploration mining concession over the area of the denounced exploration mining concession and benefit from the latter's filing date, provided certain conditions are met.
- 4 Mining concessions that will expire during 2024, and which holders intend to extend for another four more years, will be extended until December 31, 2024.

III. Mining licenses

- 1 The Bill modifies the mining license regime, as follows:
 - a Increases the mining license for exploration mining concessions to 3/50 of a monthly tax unit (“UTM”) per hectare.
 - b Progressively increases the mining license for exploitation mining concessions, ranging from 4/10 UTM per hectare during the first five years of the mining concession up to 12 UTM per hectare as of the thirty first year of validity.

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- c Sets out circumstances under which the holder of an exploitation mining concession can apply for a reduced mining license of 1/10 UTM per hectare, which shall be evidenced each year: having commenced works that permanently and continuously allow the development of mining operations (as defined in the Law that Governs the Closure of Mining Sites and Facilities); mining concessions that are part of a project that has been sanctioned with an Environmental Qualification Resolution or has been admitted for qualification under the System for Environmental Impact Assessment; for small-scale mining, to have requested any of the permits set out in Section XV of the Mining Safety Regulations;
- d The Bill incorporates a benefit in favor of individuals, legal mining companies, mining cooperatives and limited liability individual companies who hold mining concessions over less than 500 hectares and are effectively undertaking mining works, which consists of the assumption that they are eligible for reduced mining licenses for five years.
- e During the first year of Law No. 21,420 being in force, holders of exploitation mining concessions will make a onetime payment of 1/10 UTM per hectare.

IV. Possessory actions

- 1 Law No. 21,420 added a second paragraph to article 94 of the Mining Code, whereby holders of mining concessions that file a new construction complaint are required to evidence that they hold *in rem* rights (easement or otherwise) over the land for the claim to be admitted.
- 2 The Bill adds further paragraphs to article 94, which set out that it is optional for the relevant court to order the suspension or standstill of the construction works, to the extent that the claimant provides evidence of holding an *in rem* right over the land and supporting documentation on the grave and imminent danger that entails not granting the suspension or standstill order.
- 3 If the works are suspended, the developer can lift the suspension by posting a bond to cover demolition costs or damages compensations. The amount of the bond shall be determined by the court and any matter related thereto shall be resolved as a separate procedural issue.
- 4 If a possessory action is filed against the holder of a mining concession, the same rules will apply.

V. Change of Datum

- 1 The Bill eliminates all reference to the SIRGAS datum in relation to UTM coordinates in the Mining Code, leaving the definition of this matter to a specific regulation. It also eliminates the proceeding to change Datum set out in the transitory articles of Law No. 21,420.

Enactment of the Bill

The Bill will enter into effect upon its publication in the Official Gazette, except for the following which shall enter into effect on January 1, 2024:

- 1 The derogation of the current proceeding for submitting general information obtained from basic geological exploration works, set out in the law that creates the National Geology and Mining Service; and
- 2 The amendment to the Organic Constitutional Law on Mining Concessions in relation to the extension of exploration mining concessions.