

**Treaty of 9 February 1920 relating to
Spitsbergen (Svalbard)**

Act of 17 July 1925 relating to Svalbard

**The Mining Code for Spitsbergen
(Svalbard)**

Royal Ministry of Justice
Det kongelige justis- og politidepartement Oslo 1988

Treaty of 9 February, 1920, relating to Spitsbergen

The President of The United States of America; His Majesty the King of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Denmark; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; His Majesty the King of Sweden,

Desirous, while recognizing the sovereignty of Norway over the Archipelago of Spitsbergen, including Bear Island, of seeing these territories provided with an equitable régime, in order to assure their development and peaceful utilisation,

Have appointed as their respective Plenipotentiaries with a view to concluding a Treaty to this effect:

Who, having communicated their full powers, found in good and due form, have agreed as follows:

Article 1.

The High Contracting Parties undertake to recognize, subject to the stipulations of the present Treaty, the full and absolute sovereignty of Norway over the Archipelago of Spitsbergen, comprising, with Bear Island or Beeren-Eiland, all the islands situated between 10° and 35° longitude East of Greenwich and between 74° and 81° latitude North, especially West Spitsbergen, North-East Land, Barents Island, Edge Island, Wiche Islands, Hope Island or Hopen-Eiland, and Prince Charles Foreland, together with all islands great or small and rocks appertaining thereto.

Article 2.

Ships and nationals of all the High Contracting Parties shall enjoy equally the rights of fishing and hunting in the territories specified in Article 1 and in their territorial waters.

Norway shall be free to maintain, take or decree suitable measures to ensure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions, and their territorial waters; it being clearly understood that these measures shall always be applicable equally to the nationals of all the High Contracting Parties without any exemption, privilege or favour whatsoever, direct or indirect to the advantage of any one of them.

Occupiers of land whose rights have been recognized in accordance with the terms of Articles 6 and 7 will enjoy the exclusive right of hunting on their own land: 1) in the neighbourhood of their habitations, houses, stores, factories and installations, constructed for the purpose of developing their property, under conditions laid down by the local police regulations; 2) within a radius of 10 kilometres round the headquarters of their place of business or works; and in both cases, subject always to the observance of regulations made by the Norwegian Government in accordance with the conditions laid down in the present Article.

Article 3.

The nationals of all the High Contracting Parties shall have equal liberty of access and entry for any reason or object whatever to the waters, fjords and ports of the territories specified in Article 1; subject to the observance of local laws and regulations, they may carry on there without impediment all maritime, industrial, mining and commercial operations on a footing of absolute equality.

They shall be admitted under the same conditions of equality to the exercise and practice of all maritime, industrial, mining or commercial enterprises both on land and in the territorial waters, and no monopoly shall be established on any account or for any enterprise whatever.

Notwithstanding any rules relating to coasting trade which may be in force in Norway, ships of the High Contracting Parties going to or coming from the territories specified in Article 1 shall have the right to put into Norwegian ports on their outward or homeward voyage for the purpose of taking on board or disembarking passengers or cargo going to or coming from the said territories, or for any other purpose.

It is agreed that in every respect and especially with regard to exports, imports and transit traffic, the nationals of all the High Contracting Parties, their ships and goods shall not be subject to any charges or restrictions whatever which are not borne by the nationals, ships or goods which enjoy in Norway the treatment of the most favoured nation; Norwegian nationals, ships or goods being for this purpose assimilated to those of the other High Contracting Parties, and not treated more favourably in any respect.

No charge or restriction shall be imposed

on the exportation of any goods to the territories of any of the Contracting Powers other or more onerous than on the exportation of similar goods to the territory of any other Contracting Power (including Norway) or to any other destination.

Article 4.

All public wireless telegraphy stations established or to be established by, or with the authorisation of, the Norwegian Government within the territories referred to in Article 1 shall always be open on a footing of absolute equality to communications from ships of all flags and from nationals of the High Contracting Parties, under the conditions laid down in the Wireless Telegraphy Convention of July 5, 1912, or in the subsequent International Convention which may be concluded to replace it.

Subject to international obligations arising out of a state of war, owners of landed property shall always be at liberty to establish and use for their own purposes wireless telegraphy installations, which shall be free to communicate on private business with fixed or moving wireless stations, including those on board ships and aircraft.

Article 5.

The High Contracting Parties recognize the utility of establishing an international meteorological station in the territories specified in Article 1, the organisation of which shall form the subject of a subsequent Convention.

Conventions shall also be concluded laying down the conditions under which scientific investigations may be conducted in the said territories.

Article 6.

Subject to the provisions of the present Article, acquired rights of nationals of the High Contracting Parties shall be recognized.

Claims arising from taking possession or from occupation of land before the signature of the present Treaty shall be dealt with in accordance with the Annex hereto, which will have the same force and effect as the present Treaty.

Article 7.

With regard to methods of acquisition, enjoyment and exercise of the right of ownership of property, including mineral rights, in the territories specified in Article 1, Norway undertakes to grant to all nationals of the High Contracting Parties treatment based on

complete equality and in conformity with the stipulations of the present Treaty.

Expropriation may be resorted to only on grounds of public utility and on payment of proper compensation.

Article 8.

Norway undertakes to provide for the territories specified in Article 1 mining regulations which, especially from the point of view of imposts, taxes or charges of any kind, and of general or particular labour conditions, shall exclude all privileges, monopolies or favours for the benefit of the State or of the nationals of any one of the High Contracting Parties, including Norway, and shall guarantee to the paid staff of all categories the remuneration and protection necessary for their physical, moral and intellectual welfare.

Taxes, dues and duties levied shall be devoted exclusively to the said territories and shall not exceed what is required for the object in view.

So far, particularly, as the exportation of minerals is concerned, the Norwegian Government shall have right to levy an export duty which shall not exceed 1 per cent of the maximum value of the minerals exported up to 100 000 tons, and beyond that quantity the duty will be proportionately diminished. The value shall be fixed at the end of the navigation season by calculating the average free on board price obtained.

Three months before the date fixed for their coming into force, the draft mining regulations shall be communicated by the Norwegian Government to the other Contracting Powers. If during this period one or more of the said Powers propose to modify these regulations before they are applied, such proposals shall be communicated by the Norwegian Government to the other Contracting Powers in order that they may be submitted to examination and the decision of a Commission composed of one representative of each of the said Powers. This Commission shall meet at the invitation of the Norwegian Government and shall come to a decision within a period of three months from the date of its first meeting. Its decisions shall be taken by a majority.

Article 9.

Subject to the rights and duties resulting from the admission of Norway to the League of Nations, Norway undertakes not to create nor to allow the establishment of any naval base in the territories specified in Article 1 and not to construct any fortification in the

said territories, which may never be used for warlike purposes.

Article 10.

Until the recognition by the High Contracting Parties of a Russian Government shall permit Russia to adhere to the present Treaty, Russian nationals and companies shall enjoy the same rights as nationals of the High Contracting Parties.

Claims in the territories specified in Article 1 which they may have to put forward shall be presented under the conditions laid down in the present Treaty (Article 6 and Annex) through the intermediary of the Danish Government, who declare their willingness to lend their good offices for this purpose.

The present Treaty, of which the French and English texts are both authentic, shall be ratified.

Ratifications shall be deposited at Paris as soon as possible.

Powers of which the seat of the Government is outside Europe may confine their action to informing the Government of the French Republic, through their diplomatic representative at Paris, that their ratification has been given, and in this case, they shall transmit the instrument as soon as possible.

The present Treaty will come into force, in so far as the stipulations of Article 8 are concerned, from the date of its ratification by all the signatory Powers; and in all other respects on the same date as the mining regulations provided for in that Article.

Third Powers will be invited by the Government of the French Republic to adhere to the present Treaty duly ratified. This adhesion shall be effected by a communication addressed to the French Government, which will undertake to notify the other Contracting Parties.

In witness whereof the abovenamed Plenipotentiaries have signed the present Treaty.

Done at Paris, the ninth day of February, 1920, in duplicate, one copy to be transmitted to the Government of His Majesty the King of Norway, and one deposited in the archives of the French Republic; authenticated copies will be transmitted to the other Signatory Powers.

Annex.

1.

- (1) Within three months from the coming into force of the present Treaty, notification of all claims to land which had been made to any Government before

the signature of the present Treaty must be sent by the Government of the claimant to a Commissioner charged to examine such claims. The Commissioner will be a judge or jurisconsult of Danish nationality possessing the necessary qualifications for the task, and shall be nominated by the Danish Government.

- (2) The notification must include a precise delimitation of the land claimed and be accompanied by a map on a scale of not less than 1 : 1,000,000 on which the land claimed is clearly marked.
 - (3) The notification must be accompanied by the deposit of a sum of one penny for each acre (40 ares) of land claimed, to defray the expenses of the examination of the claims.
 - (4) The Commissioner will be entitled to require from the claimants any further documents or information which he may consider necessary.
 - (5) The Commissioner will examine the claims so notified. For this purpose he will be entitled to avail himself of such expert assistance as he may consider necessary, and in case of need to cause investigation to be carried out on the spot.
 - (6) The remuneration of the Commissioner will be fixed by agreement between the Danish Government and the other Governments concerned. The Commissioner will fix the remuneration of such assistants as he considers it necessary to employ.
 - (7) The Commissioner, after examining the claims, will prepare a report showing precisely the claims which he is of opinion should be recognised at once and those which, either because they are disputed or for any other reason, he is of opinion should be submitted to arbitration as hereinafter provided. Copies of this report will be forwarded by the Commissioner to the Governments concerned.
 - (8) If the amount of the sums deposited in accordance with clause (3) is insufficient to cover the expenses of the examination of the claims, the Commissioner will, in every case where he is of opinion that a claim should be recognised, at once state what further sum the claimant should be required to pay. This sum will be based on the amount of the land to which the claimant's title is recognised.
- If the sums deposited in accordance with clause (3) exceed the expenses of the examination, the balance will be devoted to the cost of the arbitration hereinafter provided for.

- (9) Within three months from the date of the report referred to in clause (7) of this paragraph, the Norwegian Government shall take the necessary steps to confer upon claimants whose claims have been recognised by the Commissioner a valid title securing to them the exclusive property in the land in question, in accordance with the laws and regulations in force or to be enforced in the territories specified in Article 1 of the present Treaty, and subject to the mining regulations referred to in Article 8 of the present Treaty.

In the event, however, of a further payment being required in accordance with clause (8) of this paragraph, a provisional title only will be delivered, which title will become definitive on payment by the claimant, within such reasonable period as the Norwegian Government may fix, of the further sum required of him.

2.

Claims which for any reason the Commissioner referred to in clause (1) of the preceding paragraph has not recognised as valid will be settled in accordance with the following provisions:

- (1) Within three months from the date of the report referred to in clause (7) of the preceding paragraph, each of the Governments whose nationals have been recognised will appoint an arbitrator. The Commissioner will be the President of the Tribunal so constituted. In cases of equal division of opinion, he shall have the deciding vote. He will nominate a Secretary to receive the documents referred to in clause (2) of this paragraph and to make the necessary arrangements for the meeting of the Tribunal.
- (2) Within one month from the appointment of the Secretary referred to in clause (1) the claimants concerned will send to him through the intermediary of their respective Governments statements indicating precisely their claims and accompanied by such documents and arguments as they may wish to submit in support thereof.
- (3) Within two months from the appointment of the Secretary referred to in clause (1) the Tribunal shall meet at Copenhagen for the purpose of dealing with the claims which have been submitted to it.
- (4) The language of the Tribunal shall be

English. Documents or arguments may be submitted to it by the interested parties in their own language, but in that case must be accompanied by an English translation.

- (5) The claimants shall be entitled, if they so desire, to be heard by the Tribunal either in person or by counsel, and the Tribunal shall be entitled to call upon the claimants to present such additional explanations, documents or arguments as it may think necessary.
- (6) Before the hearing of any case the Tribunal shall require from the parties a deposit or security for such sum as it may think necessary to cover the share of each party in the expenses of the Tribunal. In fixing the amount of such sum the Tribunal shall base itself principally on the extent of the land claimed. The Tribunal shall also have power to demand a further deposit from the parties in cases where special expense is involved.
- (7) The honorarium of the arbitrators shall be calculated per month, and fixed by the Governments concerned. The salary of the Secretary and any other persons employed by the Tribunal shall be fixed by the President.
- (8) Subject to the provisions of this Annex the Tribunal shall have full power to regulate its own procedure.
- (9) In dealing with the claims the Tribunal shall take into consideration:
 - (a) any applicable rules of International Law;
 - (b) the general principles of justice and equity;
 - (c) the following circumstances:
 - (i) the date on which the land claimed was first occupied by the claimant or his predecessors in title;
 - (ii) the date on which the claim was notified to the Government of the claimant;
 - (iii) the extent to which the claimant or his predecessors in title have developed and exploited the land claimed. In this connection the Tribunal shall take into account the extent to which the claimants may have been prevented from developing their undertakings by conditions or restrictions resulting from the war of 1914—1919.

(10) All the expenses of the Tribunal shall be divided among the claimants in such proportion as the Tribunal shall decide. If the amount of the sums paid in accordance with clause (6) is larger than the expenses of the Tribunal, the balance shall be returned to the parties whose claims have been recognised in such proportion as the Tribunal shall think fit.

(11) The decisions of the Tribunal shall be communicated by it to the Governments concerned, including in every case the Norwegian Government.

The Norwegian Government shall within three months from the receipt of each decision take the necessary steps to confer upon the claimants whose claims have been recognised by the Tribunal a valid title to the land in ques-

tion, in accordance with the laws and regulations in force or to be enforced in the territories specified in Article 1, and subject to the mining regulations referred to in Article 8 of the present Treaty. Nevertheless, the titles so conferred will only become definitive on the payment by the claimant concerned, within such reasonable period as the Norwegian Government may fix, of his share of the expenses of the Tribunal.

3.

Any claims which are not notified to the Commissioner in accordance with clause (1) of paragraph 1, or which not having been recognised by him are not submitted to the Tribunal in accordance with paragraph 2, will be finally extinguished.

Act of 17 July 1925 relating to Svalbard

Chapter I. Relation of Svalbard to Norway.

§ 1.

Svalbard forms a part of the Kingdom of Norway.

To Svalbard belong Bear Island, West Spitsbergen, North-East Land, Barents Island, Edge Island, King Charles Land, Hope-Island, Prince Charles Foreland, together with all islands, great or small and rocks appertaining thereto between 10° and 35° longitude east of Greenwich and between 74° and 81° latitude north.

§ 2.

Norwegian civil and penal law and the Norwegian legislation relating to the administration of justice apply to Svalbard, where nothing to the contrary has been provided.

Other statutory provisions do not apply to Svalbard, unless specifically provided.

§ 3.

The statutes relating to public officials, to payment for public acts, to coins, measure and weight, to the postal and telegraph services, to labour protection and to labour disputes shall apply to Svalbard with such amendments as the King may lay down out of regard for the local conditions.

§ 4.

The King may issue general regulations concerning the church, school and poor relief services, concerning public order, concerning expulsion, concerning the medical and health services, concerning the building and fire services, concerning combustible articles, concerning shipping, aviation and other communications, concerning patents etc. concerning mining, hunting, catching, fishing and other industries, concerning protection of animals, plants, natural formations, tracts of land and antiquities and concerning returns to the central statistical office.

Chapter II. Government and administration of justice.

§ 5.

In Svalbard there shall be a Governor appointed by the King.

The Governor shall have the same authority as a District Governor. He is also chief of police, notary public and assistant judge in the court of first instance, in so far as no special officials are appointed to these posts.

§ 6.

The Court of Assessors for Svalbard shall be the Court of Assessors in the judicial circuit which the King determines.

§ 7.

The functions of the court of first instance, probate court judge and judicial recorder shall be assigned to the court of first instance which the King determines.

§ 8.

Under the Governor as assistant judge shall sort:

- (1) Cases which the Act relating to judicial procedure in penal cases or other statutes have assigned to the court of first instance;
- (2) paternity cases which the judge of the court of first instance deems can best be elucidated in Svalbard;
- (3) cases concerning private service or other private employment relationships;
- (4) other cases relating to capital claims, when the value of the object in dispute does not exceed NOK 2 000,- or when both parties ask for a judgment and the Governor is willing. The Governor can also perform taking of evidence and registrations.

§ 9.

In cases where mediation between the parties is obligatory the court shall undertake such mediation.

The court stipulates the time and place for court sittings and the notice which parties and witnesses shall have.

The statutory provisions relating to court vacations do not apply to Svalbard.

Witnesses and experts are not bound to meet at a distance exceeding 10 km from the place where they reside or sojourn when summons is served, unless the court gives them special order to attend.

As regards allowance for conveyance and board the King shall issue regulations.

§ 10.

Evaluation in expropriation cases is undertaken by three legal surveyors. Appeal against an evaluation is heard by five legal surveyors with the Governor as chairman.

If the case is particularly important, the King may, on the petition of a party, determine that the Governor and two legal surveyors shall effect the evaluation. Appeal against the evaluation shall in such case be heard by five legal surveyors with a surveyor judge, whom the King appoints, as chairman.

§ 11.

Court witnesses, legal surveyors, lay judges and assessors for court sittings in Norway shall be selected from the panels which are established for the court in question.

In Svalbard the Governor shall appoint court witnesses, legal surveyors and lay judges. They must be Norwegian subjects, be of age and not deprived by judgment of their right of voting in public affairs.

The persons appointed are bound to accept the task. Allowance for conveyance and board can be granted to them according to rules laid down by the King.

Process-servers shall be appointed by the Governor.

§ 12.

Seizure, sequestration, distraint proceedings, and forced sale relating to real property or mining rights in Svalbard shall be performed in Norway by the judge of the court of first instance. Other enforcement action shall sort under the Governor.

Forced sale of real property and mining rights shall be announced once in the Norwegian Gazette with at least 3 months' notice and by affixation of a notice at the office of the court. Forced sale of moveables shall be announced by notices and in other suitable manner.

§ 13.

The register of mortgages in Svalbard shall have a separate folio for each real property, each mining claim and each leased piece of State land.

As to the designation of properties and mining claims in the register of mortgages and as to the keeping of the register of mortgages, the King shall issue more detailed regulations.

Chapter III. Special rules concerning personal legal relations.

§ 14.

Guardians for minors or for persons declared incapable of managing their own affairs shall be appointed by the Governor.

He shall without delay send notification of such appointment and a statement of the capital assets of the person under guardianship.

The King shall issue more detailed regulations as to how the assets shall be administered and as to supervision of the guardians.

§ 15.

The declaring of a person as incapable of managing his own affairs on account of mental infirmity can be done temporarily by the Governor, when a medical certificate of the infirmity is presented.

§ 16.

Both civic and ecclesiastical solemnization of marriage may be performed without publication of banns.

§ 17.

If a marriage contract (ektepakt) is executed and the person performing the solemnization of the marriage endorses the contract with an attestation of the date, the contract shall be valid also in relation to a third party from the date of the solemnization of the marriage, if it is registered within one year.

§ 18.

Mediation between spouses under the provisions of the Marriage Act may be performed by the Governor or by a person authorized to solemnize marriage.

§ 19.

The Governor shall also function as bailiff of alimony pursuant to the statutes relating to parents and children.

§ 20.

The child welfare committee shall consist of the Governor and two members whom he appoints. At least one of the members shall be a woman.

§ 21.

The statutes relating to allodial possession (odelsrett) and right of primogeniture (åsetesrett) shall not apply to Svalbard.

Chapter IV. Special rules relating to property.

§ 22.

All land which is not assigned to any person as his property pursuant to the Treaty relating to Svalbard shall be State land and as such be subject to the State's right of ownership.

No one may gain a prescriptive right of ownership or use of State land. Rights which the State possesses over vended State land cannot be lost by prescriptive right.

§ 23.

Over land which has been assigned to a private proprietor under the Treaty relating to Svalbard, subjects of the states which are parties to the Treaty can without special licence acquire both right of ownership and right of use. The same applies to a lawfully formed company, the board of which has its seat in these states.

The keeper of the register of mortgages may demand evidence from the authorities concerned in the home state that a foreigner or a foreign company fulfils these conditions.

§ 24.

If the proprietor or user of real property in Svalbard does not reside or have permanent abode in Norway or Svalbard, he must have an authorized agent who is resident in the Kingdom to represent him in all matters relating to this property. The same applies when the proprietor or user is a company, whose board has its seat in a foreign state.

The power of attorney with the name and status of the agent shall be registered.

If no such power of attorney has been given and registered, the judge of the court of first instance can appoint an agent at the request of anyone interested. The appointment shall be registered and shall be valid until the owner or user himself registers a power of attorney.

§ 25.

The King can issue regulations as to how the boundaries of private land shall be marked.

When a real property is divided, the Governor shall appoint two men to draw up a certificate of division with the necessary particulars of the part separated off. Title-deed to the separated portion must not be registered before the certificate of division.

§ 26.

The ground proprietor has sole right of hunting and catching on the property:

- a) in the vicinity of dwelling, houses, magazines, work-shops and other buildings which have as their purpose the utilization of the property;
- b) within a distance of 10 km from the main seat of the activity or utilization of the property.

The ground proprietor has the sole right of hunting, catching, collecting of eggs and down in eggeries or downeries which are protected by licence of the King. The protection shall be announced in the Norwegian Gazette and the locality shall be marked in the manner the King prescribes.

§ 27.

Outside the areas which are specified in § 26 hunters, catchers, fishermen, collectors of eggs and down shall be entitled to have cabins and other establishments which they need for sojourn and work, provided that it is not an inconvenience to the ground proprietor.

Anyone who wishes to carry on scientific investigations shall have the same right outside the areas specified in § 26, litra a).

Dispute concerning the application of these regulations shall be decided by the Governor with final effect.

§ 28.

Enforced relinquishment of a right of ownership or use of real property in cases other than are warranted by the Mining Code may be permitted the King:

- (1) when the State or a private person wishes to build a harbour, quay, dock, road, transport device, water conduit, power line, telegraph or telephone installation.
- (2) when the State in other respects needs the ground for public or scientific use.

The proprietor and other possessors of rights shall be given opportunity to make a statement before the King gives the permission.

Chapter V. Miscellaneous provisions.**§ 29.**

The King can decide that persons and companies from states not party to the Treaty relating to Svalbard can acquire mining rights, rights of ownership or use of real property in Svalbard, wholly or partly on the

same conditions as the ones to which they would be subject if they belonged to one of the Contracting Parties.

§ 30.

This Act shall enter into force on the date decided by the King.

**The Mining Code (the Mining Regulations) for Spitsbergen
(Svalbard), laid down by Royal Decree of 7 August 1925 as
amended by Royal Decree of 11 June 1975.**

Chapter I. Introductory provisions.

§ 1.

This Mining Code shall apply to the entire Archipelago of Spitsbergen (Svalbard), comprising, with Bear Island, all the islands situated between 10° and 35° longitude East of Greenwich and between 74° and 81° latitude North, especially West Spitsbergen, North-East Land, Barents Island, Edge Island, Wiche Islands (King Karls Land), Hope Island (Hopen) and Prince Charles Foreland, together with all islands great or small and rocks appertaining thereto.

§ 2.

- (1) The right of searching for and acquiring and exploiting natural deposits of coal, mineral oils and other minerals and rocks which are the object of mining or quarrying, subject to the observance of the provisions of this Mining Code and on equal terms with regard to taxation and in other respects belongs, in addition to the Norwegian State, to:
 - a) All nationals of those States, which have ratified or adhered to the Treaty relating to Svalbard.
 - b) Companies which are domiciled and legally established in any of the said states. A company is considered as domiciled in the state in which its board has its seat.
- (2) That a person or a company fulfils the conditions here stipulated, must at the demand of the Commissioner of Mines be verified through a proper affidavit of a competent authority in their home country, and the competency of such authority if it is not a Norwegian authority, must be certified by a Norwegian legation or consulate in the state concerned, or by the legation or consulate in Norway of such state.
- (3) Any dispute as to whether a mineral or rock is of such nature as mentioned in item (1), shall be finally settled by the Ministry concerned on report of the Commissioner of Mines.

§ 3.

- (1) Persons who have no domicile, nor any

permanent place of residence in Norway or in Svalbard and companies, the boards of which have not: their seat in Norway or in Svalbard, in order to be able to acquire and exercise the rights mentioned in § 2, must have an agent permanently resident in Norway or in Svalbard, whose name, position and place of residence have been reported to the Commissioner of Mines, and who is empowered to represent them in court and in relation to mining operations in Svalbard.

- (2) Upon a failure to comply with the requirement, the Judge of the court of first instance at the place where the Commissioner of Mines has his office, at the request of anyone interested, may name an attorney. Such attorney shall have the same authority as mentioned in item (1), until the party concerned reports the appointment of another attorney.

§ 4.

- (1) Any application to Norwegian authorities that has to be made within a certain term, pursuant to this Mining Code, must be filed with the authority concerned before the expiration of such term.
- (2) If an application is not worded in the Norwegian language, the authority concerned may demand a translation thereof, duly certified, to be submitted within a certain term and, upon a failure of the applicant to comply therewith, may refuse to consider the application.

§ 5.

- (1) The powers which according to the Mining Ordinance are conferred upon the Commissioner of Mines, may by the Ministry concerned, to such extent as needed, be delegated to subordinate officers of the mining service.
- (2) The decisions of such officers may be submitted to the Commissioner of Mines for reconsideration and the decisions of the Commissioner of Mines likewise to the Ministry provided the decisions have not been given during a claim survey in which case the procedure of § 13 applies.

- (3) The decisions of other subordinate administrative authorities, with reference to the Mining Code, also may be submitted to higher authority for reconsideration.

§ 6.

Public officials serving in Svalbard are not allowed to notify any discoveries, to obtain any claims, or to be proprietor of or partner in any claims, nor to be agents for sale of discoveries or claims in their districts.

Chapter II. On search and discoveries.

§ 7.

- (1) The search for natural deposits of the minerals and rocks mentioned in § 2 may be made on one's own property as well as on that of any other party, and on the State land.
- (2) Any person who desires to search on the property of some other party or on the State land, must have a licence from the Commissioner of Mines or from the chief of police, and he is bound to produce such licence on request.
- (3) The licence shall be valid for two years from the date of issue, and confers upon the searcher the right of undertaking any work considered necessary or expedient in order to search for the minerals and rock mentioned in § 2, or in order to examine discoveries already made, also including work, the object of which is to make a preliminary examination of the deposit in order to decide whether it is worth working. (4) No search must be made within the claim of any other party, unless the holder of the claim has given the permission.
- (5) No search must be made within a distance of 500 metres from any factory or industrial establishment under construction or in operation, any line of transport or quays or from any dwelling house, not including huts for catching, fishing or whaling expeditions which are only occasionally used, unless consent is given by the proprietor and tenant of the plants or the building. Nor must any search be made within any such distance from any public or scientific establishment, church or cemetery.

§ 8.

- (1) The searcher is bound to indemnify any damage which, through the search, is caused to the proprietor of the ground or any other party.

- (2) Anyone preventing any party from lawful search shall indemnify any provable loss which the searcher has suffered through any futile journey or otherwise.

§ 9.

- (1) Anybody who, by lawful search, shall discover a natural deposit, containing or supposed to contain minerals or rocks as mentioned in § 2, acquires thereby, in preference to subsequent discoverers, a right to the discovery, provided he, in the presence of two witnesses, by marks in solid rock or, by other lasting and satisfactory means, visibly locates a discovery point and besides, not later than 10 months after having located the discovery through a written notification informs the Commissioner of Mines thereof.

A discovery notice may also, before the expiration of this term, and with full legal effect, be filed with the chief of police, who in that case as soon as possible shall transmit it to the Commissioner of Mines.

- (2) The discovery notice must be signed by the claimant and shall contain:
 - a) The name, domicile and nationality of the claimant and the witnesses, and, in the cases mentioned in § 3, the name and address of the appointed attorney.
 - b) Accurate description of the situation of the discovery point and of the kind of marks used, accompanied by a sketchmap in a scale of not less than 1 : 100 000 on which the discovery point shall be marked.
 - c) Exact statement of the moment when the discovery was marked.
 - d) Information of the nature of the discovery under reference to a sample, handed over at the same time, of the minerals or rocks found.
 - e) Reference to an enclosed declaration from the witnesses that the discovery point was marked in their presence and how the marking took place.
- (3) Anybody who wants to notify several discoveries must for each of them file a separate discovery notice.
- (4) If a discovery notice which does not comply with the prescriptions of items (2) and (3) has been filed in due time- the right to the discovery is preserved if the defects are remedied within a term to be fixed by the Commissioner of Mines.
- (5) The provisions of items (1) – (4) are correspondingly applicable when any party will take up a deposit which has reverted

to the State land, whether it has been worked or not.

§ 10.

- (1) The right to a discovery which has been acquired by a discoverer according to § 9, besides the right of carrying out on the place of discovery the operations mentioned in § 7 item (3), also entitles him, in preference to subsequent discoverers, to demand a claim on the discovery point.
- (2) The right to the discovery lapses if an application for a claim survey has not been filed with the Commissioner of Mines within 5 years after the discovery was marked, or if any other party before the expiry of the said term has obtained a claim on the discovery point, see § 12, item (2), litra d).
- (3) The right to a discovery that has been filed for record may be transferred. The transfer is not valid before having been notified to the Commissioner of Mines.

Chapter III. On claim patents.

§ 11.

- (1) The claim survey shall be made by the Commissioner of Mines at the latest within 2 years after an application has been filed, if natural conditions or any other circumstances do not make it impossible.
- (2) The time for such survey shall be notified in the official gazette designated for this purpose within the end of the month of the year in which the survey is to be held.

The notification shall contain:

- a) The name, the domicile and nationality of the applicant.
- b) Information concerning the situation of the discovery point and the time reported for the marking of the discovery.
- c) The time and the place for the survey.
- d) Summons to all who claim to possess a better right to the claim to meet and look after their interests during the survey.

The Commissioner of Mines besides should send reprints of the notification to those who are supposed to be interested in the survey. It is, however, of no consequence for the furthering of the survey, that such information has not been transmitted or not been received by the party interested.

- (3) NOK 4.500,- shall be paid for the dealing with an application for a single claim. If an applicant asks for several claims in the same neighbourhood and at the same time, or if several applicants jointly ask for claims in the same neighbourhood and at the same time, NOK 1.800,- shall be paid for each additional claim stated in the application. The claims applied for are considered as lying in the same neighbourhood, when the distance between the discovery points which are lying farthest from each other does not exceed 30 kilometres.

Payment for a claim survey shall be made to the Commissioner of Mines simultaneously with the application for same.

§ 12.

- (1) On making the claim survey the Commissioner of Mines first decides whether the applicant is entitled to obtain any claim.
- (2) If so, he makes the survey observing the following provisions:
 - a) The discovery point must lie within the boundaries of the claim.
 - b) If several discovery points that are recorded are situated so near to each other that the right to get a claim on one of the discoveries is dependent on the manner in which a claim is given for another discovery, he who first has marked a discovery point may choose in what manner he wishes the survey to be undertaken. If he does not attend the claim survey, the Commissioner of Mines shall decide in what manner the claim for his discovery is to be subsequently given, if he demands a claim.
 - c) The claim shall be given as a plain superficies having a square content as per the request of the applicant and the character of the deposit up to 1 000 hectares. Ordinarily the claim shall be given in the form of a rectangular parallelogram, the length and breadth of which are fixed by the applicant himself, the limitation being that the length may not be more than 4 times the breadth. Dispensations from the rectangular form should be given by request of the applicant, when this is dictated by configuration of the coastline or other natural boundaries, and provided that the claim in no direction exceeds a length of 7 kilometres. The boundaries are comprised within vertical planes passing through the

boundary lines on surface and projected indefinitely downwards.

- d) If the claim covers several discovery points the right to obtain claim for the rest lapses.
- (3) The claim survey shall be entered in an authorized book. The Commissioner of Mines, when requested, shall supply a verified extract of the book against a fee of NOK 10,- per sheet or part thereof.
- (4) When a claim has been granted, the Commissioner of Mines shall send to the applicant a patent for each separate claim according to the claim survey that has been allotted to him.

A proclamation of the issuing of such patent shall be published in the public gazette instituted for that purpose.

§ 13.

- (1) If any party intends to contest the decisions of the Commissioner of Mines in a claim survey, proceedings must be commenced within 6 months after proclamation of the issue of the patent has appeared in the public gazette, or if survey commenced within 6 months after proclamation of the issue of the patent has appeared in the public gazette, or if survey has been refused, within 6 months after such refusal.
- (2) The claim is final when the time for beginning an action has expired without such action having been instituted or when an action instituted in proper time has been validly decided, withdrawn or dismissed.

§ 14.

- (1) When the claim has become final the holder of the claim has acquired the sole right to extract all the minerals and rocks mentioned in § 2 through mining operations within the claim, provided that he complies with the requirement to work made incumbent on him in § 15.
- (2) The holder of the claim is entitled to mine and retain other minerals and rocks to such extent as is necessary or expedient for the operations. What has been mined but not used in the said manner may be disposed of by the proprietor of the ground.
- (3) Any voluntary or compulsory transfer of the right to a claim and any voluntary or compulsory establishment or transfer of mortgage rights or any other rights to a claim can with full legal effect only be done in the manner stipulated for real property.

- (4) On the application of the holder of the claim the Commissioner of Mines may divide a claim by making part of it a special claim. The division is to be made without a claim survey on the spot. Otherwise § 12, items (3) and (4) and § 13 shall apply correspondingly.

The fee is NOK 1.800, for each claim to be divided from the original claim.

§ 15.

- (1) When 4 years have elapsed from 1st October of the year after the claim became final the holder of the claim is bound to commence mining operations within the claim to such an extent that in the course of each succeeding period of 5 years at least 1 500 man-days work are employed in mining operations in the claim.
- (2) For a number of not more than 25 claims, which in their entirety are lying within a distance of not over 15 kilometres from a fixed point, indicated by the claim-holder to the Commissioner of Mines, such obligatory work of the claimholder shall be considered as having been performed when he inside one or more of these claims performs as many days' work as imposed upon him by item (1) for all claim aggregately.
- (3) Reports concerning the number of days' work performed during each working year, counting from 1st October one year until 30th September the next year, shall be delivered to the Commissioner of Mines before the following 31st December.
- (4) When a petition is delivered to the Commissioner of Mines in the course of a period, or at the latest on 31st December of the year in which the period elapses, the Ministry concerned on the report from the Commissioner of Mines, may dispense from the provisions in items (1) and (2) for the period in question by exempting from the duty of working, or by reducing the number of days' work required for the fulfilment of such duty. The conditions for such dispensations are:
 - a) That the holder of a claim proves that essential hindrances for which he cannot be made answerable are or have been checking the operations, such as special and passing circumstances connected with the operations, or with the utilization or sale of the products or,
 - b) that the holder of a claim proves that

one or more claims which he wishes to be left out of consideration in the calculation of the days' work are necessary as a reserve for claims which are being worked.

§ 16.

- (1) Should any holder of a claim fail to comply with the requirements for work according to § 15, items (1) and (2), without having in due time applied for and obtained dispensation, his claim lapses at the end of the calendar year following, provided he does not in the course of same make up for lost work besides performing the average number of days' work which belong to one year of the new period.
- (2) If sufficient work has been done to maintain the right to one or more of the claims, but not to all of them, the Commissioner of Mines shall decide which claims are to be considered as lapsed, provided the holder of the claim has not made his choice and stated same to the Commissioner of Mines within the expiration of the year mentioned in item (1).
- (3) When a claim has lapsed according to the above provisions neither the claim nor any part thereof can again be allotted to the holder of the claim nor to any company in which he possesses a majority of the shares, in case another holder of a registered discovery makes an application for a claim within the said area before the expiration of the current period of 5 years.

§ 17.

- (1) When the claim has become final, the annual due to be paid by the holder of the claim is up to NOK 4.500,- for each claim. For this due the State shall have a first priority mortgage right in the claim concerned, and the due may be collected in accordance with the rules fixed for the collection of taxes on real property.
- (2) If, by sale of the claim execution, sufficient covering of outstanding dues is not obtained, the claim lapses. Then it may not again be allotted to the holder of the claim, nor to any company in which he possesses a majority of the shares, unless the dues outstanding together with costs have first been paid including also the dues which have accrued in the meantime.

§ 18.

Besides in those cases mentioned in §§ 16 and 17 a claim lapses when the claim-holder, after having paid the dues owing, through a written declaration to the Commissioner of Mines, abandons his right to the claim. In that case the provisions in § 16, item (3) shall apply correspondingly.

Chapter IV. On the relation to the proprietor of the ground.

§ 19.

- (1) The proprietor of any ground on which a claim has been given is entitled to a participation in the operations for not more than one-fourth. If he desires to make use of this right he must notify the holder of the claim of the share which he claims, within one year after the patent was published in the public gazette. He may then also demand that a corresponding part of what has been extracted is to remain on the spot until an agreement has been established as to the terms of participation.

If a claim has been given on the ground belonging to several, the proprietors are entitled to participate jointly in the operations for not more than one-fourth, the expenditure and income being divided equally amongst them. If any of said proprietors is unwilling his interest shall become the property of the others.

- (2) When the proprietor of the ground or any other party to whom he may have transferred his rights has declared his willingness to participate in the operations, a written contract shall be made concerning the terms, on the basis, that the proprietor or the holder of his rights is bound to participate proportionately to the share he demanded in all the costs of the operations and the establishments for the utilization of the output and with a right to participation in the profits, in both cases from the commencement of the operations.

If the parties do not agree, either of them, within 6 months after the expiry of the time mentioned in item (1), may demand that the Commissioner of Mines fix the terms. If the proprietor of the ground will not accept the decision of the Commissioner of Mines he may, within 6 months after it was made known to him, either transfer his right to someone who accepts the terms or withdraw from any participation in the operations.

§ 20.

- (1) A claim-holder has the right to demand the assignment by the Commissioner of Mines of the ground needed for footpaths roads, railways, tramways, aerial ropeways, dumps, surface buildings, stores, quays and other establishments connected with the working of the mines.
- (2) Within the areas mentioned in § 7, item (5), no other cession can be claimed than that which is needed for the operations of any claim-holder for footpaths, roads, railways, tramways, aerial ropeways, power transmissions and quays. For the acquisition of the control of the ground in such places the permission of the Commissioner of Mines must be obtained in default of an agreement. Before any decision is made, the Commissioner of Mines shall give the proprietor of the ground and other holders of rights the opportunity to be heard. A permission must not be given unless the Commissioner of Mines finds that the interest of other parties be not thereby materially prejudiced, and conditions for the security against such prejudice shall be made if necessary.
- (3) For any damage and inconvenience caused through cessions in accordance with § 1 or § 2, the proprietor of the ground as well as any other holders of rights may claim an indemnification which, failing an agreement, shall be stipulated by an evaluation.
- (4) The ground ceded by a proprietor according to items (1) or (2) shall revert to the main ground as a full property when the use has been finally waived, or when the claim has lapsed.

After the discontinuation of the operations the holder of a claim has a period of 3 years to clear the ground to such extent as he may desire. What has not then been removed shall belong to the proprietor of the ground. If, however, within the time mentioned, any party has obtained a new claim on the abandoned mine, the previous holder of the claim has the right to transfer to the new holder his establishments, houses and machines.

Chapter V. On the mining.

§ 21.

The provisions in this chapter concerning mines shall have a corresponding application to surface working as far as they are suitable.

§ 22.

- (1) The working of a mine shall be effected in a minerlike manner.
- (2) He, or those, who are to superintend the technical management on the spot, must have the necessary professional knowledge and experience.
- (3) No mine workings must be commenced in those places where search is prohibited according to § 7, item (5), except by permission of the proprietor or the user of the ground; nor may underground work take place on these premises, unless the work, exclusively to the judgment of the Commissioner of Mines, is of such nature or is carried on in such a way that no subsidences are caused thereby or no other damage is inflicted on buildings or plants on the surface. No permission as mentioned above is needed, however, if such buildings or plants have been erected after the claim has become final.
In order to commence or carry on underground work within the distance mentioned in § 7, item (5), from public or scientific establishment, church or cemetery, permission is required of the King.
- (4) At any establishment employing workmen who are not Norwegians, at least one officer, must be appointed who understands Norwegian and can make himself understood in the Norwegian language and, if necessary, also in the foreign language commonly used at the mine.

§ 23.

- (1) At every mine there shall, if the Commissioner of Mines deems it necessary, be kept a record in which shall be entered monthly a report on the operations and everything happening of interest to the mine, and to the conditions of the deposits.

Of this record an extract – made in accordance with a form prescribed by the Commissioner of Mines – shall be sent for each working year, before 31st December, to the Commissioner of Mines.

- (2) For each mine that cannot in its entirety be overlooked on the surface, there shall further be prepared a map (mine plan), which must be supplemented as the operations are advancing.

One copy of the map shall be kept at the mine, and another shall be forwarded to the Commissioner of Mines.

- (3) The information and the maps which the Commissioner of Mines receives according to this section should only be used for official purposes and must not be made available to others.

§ 24.

To such extent as may be done without special difficulties and expenses, endeavours should be made in the course of operations to avoid the destruction of any geological and mineralogical formations or any other natural curiosities or places which may be supposed to be of scientific or historical importance.

§ 25.

- (1) If the holder of a mine for which surveying is prescribed desires, temporarily or definitely, to discontinue the operations, he shall inform the Commissioner of Mines to that effect as soon as possible.
- (2) Any timbering and support provided for the safety of the mine, must in such cases not be damaged or removed without the permission of the Commissioner of Mines.
- (3) Mine openings must be filled or surrounded with a proper fence.

Chapter VI. On protection of workers.

§ 26.

- (1) The statutory provisions regarding the protection of workers at any time in force for mining in Norway shall also apply to mining in Svalbard with such modifications and adaptations however as may be laid down by the King, due regard being paid to the local conditions.
- (2) What has been stipulated in §§ 27-33 concerning workers shall also apply to any other person employed in the mining operations at the place.

§ 27.

- (1) The employer is bound to furnish his workers with healthy and proper dwellings, and, as far as circumstances permit, to provide sanitary arrangements. Further instructions concerning the manner of building and the fitting up of the houses shall be issued by the Ministry concerned. The Ministry also may make it incumbent on the employer to provide for a meeting-hall and a proper collection

of books in a language known by the workers.

- (2) The employer is bound to keep at the establishment a supply of the necessary medicines, surgical instruments and dressing articles.

More detailed instructions in this respect shall be issued by the Ministry concerned.

- (3) The Ministry may enjoin on the employer to maintain a hospital suitable for the purpose with an isolation facility and the necessary outfit and attendance, calculated to accommodate as large a number of patients as the Ministry may decide. When the Ministry finds it necessary, the employer shall also be required to supply medical attendance on the spot.

§ 28.

- (1) At the time of the year when the communication with the outside world may be expected to be interrupted through ice, it is incumbent on the employer to take care that there is present at the establishment such supplies of food, clothing and other necessities of life as his workers shall need for at least one year's maintenance.

The stores shall be distributed in safe depots. More detailed regulations for the implementation of these provisions shall be issued by the Ministry concerned.

- (2) The chief of police, in case of emergency, may order, or himself effect, the sending home of as many workers as he finds necessary in order to make the supplies suffice for the maintenance of those remaining.

Complaint does not cause postponement.

§ 29.

Arms, munitions and explosives as well as alcoholic beverages and narcotics may be imported into Svalbard only in accordance with regulations issued by the King, due regard being paid to the needs of the companies.

§ 30.

- (1) The net proceeds of the trade which the employer himself or through others carries on with the workmen, or is interested in, at the place concerned, shall after audited annual accounts be used for the general welfare of the workmen. The

application of these profits shall be decided by the employer in conjunction with a committee appointed by the workers who, in the case of dispute, may demand that the matter be referred to the decision of the chief of police. In calculating the net proceeds of such trade the employer is entitled to deduct a reasonable interest on the capital invested in the establishment.

- (2) The provisions of item (1) shall also be applicable if the employer has any profit on his maintenance of the workers in Svalbard.

§ 31.

- (1) The employer shall take care that his workers in case of illness receive hospital attendance until they have become well, or at any rate until they are in a condition to be sent home. The repatriation in this case shall be paid by the employer.
- (2) The employer, moreover, is obliged to pay compensation for the loss of working income during illness.
- (3) The King shall issue more detailed regulations concerning the obligation to provide attendance during illness and concerning the conditions for and the amount of the compensation for loss of working income during illness.

§ 32.

If any worker in doing his work is injured by an accident which was not caused intentionally by the victim of the accident, it is incumbent on the employer, besides the obligations mentioned in § 31, to pay to the victim or, in the event of his death, to his survivors, a compensation in accordance with regulations issued by the King.

§ 33.

- (1) The employer shall give to the Ministry concerned, through a bank guarantee, insurance or in some other manner, satisfactory security for the claims of the workers. The amount of the guarantee sum shall be fixed and the security offered shall be approved by the Ministry.
- (2) If the requirement to give security is not complied with, the Ministry may fix a daily fine, running until the matter is settled. The fine shall be collectable by distraint. It shall be employed as provided for in § 30.

Chapter VII. Transitional provisions.

§ 34.

- (1) Persons and companies who make territorial claims on the basis of acts of appropriation or occupations that have taken place before the signing of the Treaty relating to Svalbard, if their claims are notified in conformity with § 1, item (1) of the Annex to the said Treaty shall be entitled, without any hindrance from the stipulations in this Mining Code but also without this involving any acknowledgment of their claims, to carry on prospecting and mining operations within the areas claimed, as long as their claims have not lapsed or been rejected pursuant to the provisions of the said Annex. During this interval no other person has the right of prospecting or mining within said areas.
- (2) The provisions in Chapter V and VI shall also apply to mining operations, carried on according to item (1), from 1st September, of the year after the Mining Code has entered into force.

§ 35.

- (1) The persons and companies who pursuant to the provisions of the Annex to the Treaty relating to Svalbard are recognized as proprietors of a certain territory, shall be granted as many claims as they desire within the boundaries of their property, subject to the following conditions:
 - a) That the act of appropriation or occupation upon which the acknowledged ownership is founded has taken place with a view to utilize the territory for mining operations, or has been followed by development or exploitation for that purpose;
 - b) That an application for a claim survey, containing information of the nature of the deposit under reference to a sample, contemporarily handed over, of the minerals and rocks found and accompanied by the stipulated fee, is filed with the Commissioner of Mines within 10 years after the claimant's title-deed for the property has been issued pursuant to the provisions in the Annex to the Treaty relating to Svalbard, § 1, item (9), or § 2, item (11), provided that the title-deed is or becomes definitive.

The fee to be charged is NOK 500,-

for the first, and NOK 200,- for each succeeding claim within the boundaries of the same property.

In these cases the provisions of § 11, item (1) and item (3), last paragraph, and of § 12 item (1), item (2) litra c), item (3) and item (4), shall be applicable *mutatis mutandis*, while the other provisions of §§ 9 to 12 are not applicable.

- (2) Until the expiry of the term mentioned in item (1), litra b), and provided the application for a claim is filed in proper time, until the claim has become final, the recognized owner has the exclusive right to carry on prospecting and mining within his territory. During this period the provisions in Chapter V and VI shall apply.

- (3) Persons and companies mentioned in item (1) are exempted from the claim dues mentioned in § 17 for claims acquired pursuant to item (1). The same shall apply to claims being asked for under reference to discoveries which they have notified during the ten-year period mentioned in item (1) litra b). In other respects the provisions of this Code shall apply to the claims.

Final provision.

§ 36.

This Mining Code shall enter into force from such time as shall be determined by statute.