

PANORAMIC

MINING

Ireland



LEXOLOGY

Mining

Contributing Editors

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MINING INDUSTRY

Standing

What is the nature and importance of the mining industry in your country?

Ireland is renowned as a leading European zinc and lead mining producer. Over the past five decades, a string of significant base-metal discoveries have been made, including the giant lead and zinc deposit at Tara near Navan in County Meath and two other lead and zinc mines at Galmoy in County Kilkenny and Lisheen in Tipperary. These discoveries have led to Ireland becoming the largest zinc producer in Europe and the second-largest producer of lead in the European Union, second to Poland. However, two of the main mines extracting lead and zinc have been closed due to the exhaustion of reserves: the Galmoy mine in 2012 and the Lisheen mine in 2015. The Galmoy mine has a proposed reopening, and an application has been made by Shannon Resources Ltd with Kilkenny and Laois County Council to reopen the mine. Laois County Council has now approved the application; however, Inland Fisheries Ireland has lodged an application with An Bord Pleanála against the decision of Kilkenny County Council. In June 2023 the mine at Tara, which was the only active metals mine in Ireland, temporarily shut down production and was placed under care and maintenance. In April 2024, an agreement in principle was reached to reopen the mine at Tara on a gradual basis. On the prospecting side, there is considerable interest in lead and zinc exploration in Clare, Kildare and Limerick. Gold prospecting is actively carried on in south and mid-Ulster.

The Corrib gas field, located off the northwest coast of Ireland, is owned by Canadian Pension Plan Investment, Equinor (previously Statoil) and Vermilion Energy. Production from the gas field commenced in 2015 and provides a significant percentage of Ireland's natural gas needs. Prior to this, Kinsale Head, an offshore field, provided Ireland with natural gas. Discovered by Marathon Oil in 1971 and commencing production in 1978, Kinsale met a large amount of Ireland's gas demand, peaking in 1996 after which production declined and the field was finally closed in 2020.

Currently, both gypsum and brick shale are worked from several open-pit operations, while dolomite and fireclay are also exploited. There are numerous concrete manufacturing locations and active quarries in Ireland. Previously extracted throughout Ireland, industrial minerals include barite, dimension stone, phosphate, silica sand and slate.

The 'Economic Review of the Irish Science Geosector', puts a value of €3.277 million on the overall economic impact of the sectoral outputs for 2016, across the areas of geotourism, geoheritage, groundwater, extractive industries, geoscience research and geohazards. Employment figures calculated for the same year, across the same subsectors, come to 15,110 directly employed, with a further 9,628 indirect and induced, giving a total of 24,739. As at 1 November 2023, there were nine current state mining leases, five current state mining licences and 384 current prospecting licences.

Law stated - 17 April 2024

Target minerals

What are the target minerals?

Zinc and lead extractions

(metal obtained, turnover, and gross value added)

	Metallic extraction	2016
Lead	Total metal obtained (million tonnes)	0.02
	Price (€/tonne)	1,739
	Total turnover (€ million)	34.1
	Gross value added (€ million)	11.1
Zinc	Total metal obtained (million tonnes)	0.15
	Price (€/tonne)	1,892
	Total turnover (€ million)	278.2
	Gross value added (€ million)	90.4

Source: Indecon analysis of the Central Statistics Office (CSO), the Department of the Environment, Climate and Communications (DCCAE) and international metallic price data.

Source for metal obtained: the International Lead and Zinc Study Group given in the DCCAE report on prospecting licences (2017/2016) DCCAE (2017).

Interest in minerals used in battery technology and renewable energy is high in Ireland, although there are currently no plants to process such minerals. Irish government policy is to achieve net-zero carbon emissions by 2050, which is expected to give rise to a significantly increased demand for minerals used in renewable and battery technology. These minerals include aluminium, iron, lead, lithium, manganese and nickel.

Statkraft built the first grid-scale battery storage project, a lithium-ion battery, in County Kerry, which commenced operation in April 2020. This hybrid battery-and-wind project, which combines 11 megawatts of battery with 23 megawatts of onshore wind provides reserves to the national electricity grid. Investors plan to invest considerable amounts in Ireland on building additional battery plants for storing electricity and offshore and onshore wind-farm projects.

The shift from fossil fuels to renewable sources of energy is further driving the demand for these metals, and lithium in particular, and there are concerns that shortages thereof could impede the growth of the environmentally friendly technology sector. The Irish government has pledged to facilitate the advancement of lithium production as part of an initiative to improve strategic metal supply chains. Lithium exploration is being carried out in counties Carlow and Wicklow. Other than this, it is anticipated that most of these technology metals will most likely be imported into Ireland in finished products or components as opposed to Ireland becoming a location for mining.

The most recent year in relation to which comprehensive statistics are available in relation to quarrying is 2016:

Non-metallic extractions in Ireland	Volume– 000 tonnes2016
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Ecaussine and other calcareous monumental or building stone	N/A
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Granite, crude or roughly trimmed	20
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Granite merely cut into blocks and other shapes	49
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Sandstone	80
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Porphyry, basalt quartzites and other monumental or building stone	1,078
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Limestone flux, limestone and other calcareous stone	3,478
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Silica sands (quartz sands or industrial sands)	252
Construction sands such as clayey sands, kaolinic sands, feldspathic	2,238
Gravel and pebbles for concrete aggregate	6,046
Crushed stone used for concrete aggregates	16,797
Granules chippings and powder of travertine, Ecaussine, granite	170
Mixtures of slag and waste product	N/A

Source: CSO Products of the European Community statistics.

Law stated - 17 April 2024

Regions

Which regions are most active?

Historically, mining has been mainly undertaken in the South West, South Midlands and the East of the country. The only regions in which mining is actively carried out are in East (lead and zinc) and South and Mid Ulster (gold prospecting). Quarrying of non-metal minerals in Ireland is a thriving industry with over 500 active quarries across the country.

Law stated - 17 April 2024

LEGAL AND REGULATORY STRUCTURE

Basis of legal system

Is the legal system civil or common law-based?

The legal and regulatory structure is common law-based.

Law stated - 17 April 2024

Regulation

How is the mining industry regulated?

Mining and mining-related environmental and health and safety are regulated by Irish law, much of which transposes EU legislation, principally EU directives and regulations. The principal legislation is the Minerals Development Acts 1940–1999. Mining legislation is administered by the Department of Environment, Climate and Communications, while the Mining Board deals with disputes of law. The Minerals Development Act 2017, which replaces much of the existing mining-related legislation, was enacted in 2017 and is expected to commence before the end of 2024. Planning permission, which is needed for mining operations, is granted by the relevant local authority, which, outside of urban areas, is a county council. The Environmental Protection Agency is responsible for environmental regulation while the Health and Safety Authority regulates safety standards.

Law stated - 17 April 2024

Regulation

What are the principal laws that regulate the mining industry? What are the principal regulatory bodies that administer those laws? Were there any major amendments in the past year?

Mineral exploration and mining are currently regulated under the Minerals Development Acts 1940–1999, which comprise:

- the [Minerals Development Act 1940](#): defines minerals, mineral ownership, prospecting licences, state mining leases, arbitration, etc;
- the [Minerals Development Act 1979](#) (the 1979 Act): vests in the Minister the exclusive right to work privately owned minerals and provides for permitting of the working of those minerals by third parties, subject to payment of compensation;
- the [Minerals Development Act 1995](#): renewals of prospecting licences and application fees for state mining facilities; and
- the [Minerals Development Act 1999](#): clarifies state ownership of certain minerals and addresses the right to compensation under the 1979 Act.

In addition, the [Energy \(Miscellaneous Provisions\) Act 2006](#) contains provisions relating to the treatment by the rehabilitation of lands affected by mines and former mines, and for

the compulsory acquisition of lands for the purposes of such rehabilitation. In addition to the above primary legislation, ministerial regulations have been made under the Minerals Development Acts 1940–1999, which deal with information to be provided for prospecting licence applications and procedures for claiming compensation etc.

The Minerals Development Act 2017 (the 2017 Act), although enacted in 2017 is expected to be commenced before the end of 2024. The 2017 Act will replace the existing Minerals Development Acts 1940–1999 and provides for the regulation of prospecting for and development of minerals along with a statutory vesting of the exclusive right to work minerals in the Minister for Environment, Climate and Communications, subject to the payment of compensation. The 2017 Act provides for the compulsory acquisition of other rights necessary for the efficient development of minerals, subject to payment of compensation together with the payment to the state of rents and royalties from the extraction of minerals. It also deals with the preparation and implementation of rehabilitation plans for abandoned mine sites.

Planning permission

The Planning and Development Regulations 2001 provide that the carrying out of works on any land for the purpose of minerals prospecting, where the prospecting is carried out pursuant to and in accordance with a prospecting licence granted by the Minister under the Minerals Development Acts 1940–1999, is an exempted development. The prospecting activities permitted pursuant to the licences are within the meaning of ‘exempted development’ under the Planning and Development Acts 2000–2015. Because they are an exempted development there is no obligation to obtain permission under the Planning and Development Acts for the purpose of carrying on prospecting. However, to carry on mining activities planning permission is required under the Planning and Development Acts 2000–2015 from the local authority, most likely a county council, in whose area the mining is carried out.

The Planning and Development Bill 2023 was published in November 2023. This legislative framework seeks to provide clarity while promoting certainty and consistency surrounding planning decisions. The Bill must now move through the legislative process and is currently at stage 2 of 11 procedural steps. It is expected that the Bill will be enacted later in 2024. This may result in changes to the current exempted development provisions.

Health and safety

The Health and Safety Authority (HSA) is responsible for administering health and safety in relation to mines in Ireland. The HSA has specialist mining inspectors that carry out inspections of mines on an annual basis. The Safety, Health and Welfare at Work (Mines) Regulations (the 2018 Regulations) apply to all mines where persons work and set out duties for the owner, operator, manager and employees at a mine with respect to persons at or in the area immediately surrounding a mine. The 2018 Regulations largely consolidate regulations specific to mines.

The Safety, Health and Welfare at Work (General Application) Regulations 1997 now also apply to mines in relation to pressure vessels and the reporting of dangerous occurrences, although there are a number of additional reportable dangerous occurrences specific to

mines within the 2018 Regulations. The 2018 Regulations provide for greater duties to be imposed on the owner of a mine, the operator and the mine manager. While the mine manager continues to have duties and responsibilities, there is generally a higher level of duty now placed on the mine operator.

Law stated - 17 April 2024

Classification system

What classification system does the mining industry use for reporting mineral resources and mineral reserves?

In common with other EU member states, Irish incorporated companies with securities listed in Ireland or the United Kingdom, commonly use any of the following classification systems:

- the Society for Mining, Metallurgy and Exploration Guidelines – United States;
- the Australian Joint Ore Reserves Committee Code;
- the Pan-European Resources Code;
- the Canadian Institute of Mining, Metallurgy and Petroleum National Instrument 43-101 Standards;
- the South African Code for the Reporting of Mineral Resources and Mineral Reserves;
- the Public Reporting of Exploration Results, Mineral Resources and Mineral Reserves Code – Russia; and
- the Certification Code for Exploration Prospects, Mineral Resources and Ore Reserves – Chile.

Many Irish mining companies are listed on the London Stock Exchange, primarily the AIM market. Following Brexit the above standards still apply as a result of the rules of the European Securities and Markets Authority guidance.

Law stated - 17 April 2024

MINING RIGHTS AND TITLE

State control over mining rights

To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

Ownership of mines and minerals in Ireland is regulated pursuant to legislation including the Irish Land Acts 1903–1923 (the Land Acts) and the Minerals Development Acts 1940–1999 and is also subject to the common law. The exclusive right to work or extract in commercial quantities almost all minerals (as opposed to the right to own minerals) vests in the Minister

for the Environment, Climate and Communications (the Minister). This has occurred in two main ways. First, mineral rights were reserved to the state (subject to some provisions about existing workings) during the division of large estates carried out by a state agency, the Land Commission, under the Land Acts. These minerals owned by the state are referred to as state minerals under the 1940 Act and can be leased under that Act. Second, by statutory vesting under the Minerals Development Act 1979 (the 1979 Act), which provides that the exclusive right of working minerals is vested in the Minister except as provided in that Act. These minerals are leased or licensed under the 1979 Act to third parties such as exploration or mining companies. The exceptions are limited and relate to minerals being worked before 1979, of which there are very few. The Acts provide that all rights of ownership of minerals under the foreshore vest in the state, as do all mines of gold and silver.

Some minerals were compulsorily acquired under now-repealed sections of the 1940 Act. These are also state minerals, which can be leased under the 1940 Act by third parties such as exploration or mining companies. The recommended practice before commencing prospecting is to carry out extensive searches of the two registers of land ownership, the Land Registry and the Registry of Deeds to ascertain the position regarding the ownership of minerals.

Law stated - 17 April 2024

Publicly available information and data

What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency, or securities commission regulating public companies, which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

In the case of a six-year prospecting licence, the holder must submit a work report at the end of each two-year phase. Since 2000, the Exploration and Mining Division, which has now been reorganised and renamed the Geoscience Regulation Office (GRO), has released all of its non-confidential exploration data. The types of exploration data made available by the GRO include:

- prospecting licence ground status;
- exploration company reports;
- drill-hole data; and
- airborne geophysics data.

All prospecting licence holders in Ireland are required to submit exploration reports to the GRO normally every two years and such reports are released free online after six years or upon surrender of a licence if earlier. Publicly available prospecting licence area data consists of non-confidential company work reports, both on surrendered prospecting licences and on work more than six years old from current prospecting licences. This open-file data

is available for viewing by members of the public from the Geological Survey of Ireland (www.gsi.ie).

The status of ground in relation to which exploration licences can be granted is available online through the GRO's [Interactive Maps](#).

In addition, as part of a regional exploration programme, Vedanta Exploration Ireland undertook a project to capture and digitise data from open file geochemistry map images. A series of datasets were produced including regarding deep burden samples, deep overburden profiling and roadside samples. The data from this project was publicly released in February 2020. The GRO holds airborne survey data flown by industry in Ireland since 1995, which is made available after six years to exploration clients by request. In March 2017, [mine data](#) from the Galmoy mine and the Lisheen mine became publicly available.

Law stated - 17 April 2024

Acquisition of rights by private parties

What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence or more senior tenure? What are the requirements to convert to a mining licence?

The Acts provide that all rights of ownership of minerals under the foreshore vest in the state, as do all mines of gold and silver. The precise extent of the state ownership of minerals is unknown but it could be that a majority are state-owned. The exclusive right to work minerals vests in the Minister under the 1979 Act, subject to some exceptions.

Prospecting licences are allocated by a system of competitive bidding. The GRO publishes a list of the prospecting licence areas available for application by interested parties under equal competition, the most recent being the 1 February 2023 prospecting licence competition, with the deadline for the competition being 31 March 2023. Such competitions are normally held quarterly. Information including current licence area status can be found on the GRO's website.

The 1940 Act prohibits the holder of a prospecting licence from working, selling, or otherwise disposing of any minerals lying on or under the land in respect of which such licence was granted. In this context 'working' in relation to minerals includes digging, searching for, mining, getting, raising, taking, carrying away, treating and converting such minerals. The 1940 Act specifically allows the licence holder to take and remove reasonable quantities of the minerals to which the licence relates for the purpose of analysis, test, trial or experiment.

An additional and separate licence is required under law including the 1940 Act if the company requires to 'work' the minerals in the area of land subject to the prospecting licence. Where the mining or extraction of minerals in commercial quantities is intended it will be necessary for the company to make a separate application pursuant to the 1940 Act to the Minister in respect of the grant of a state mining lease (in the case of minerals in state ownership) or a state mining licence (in the case of minerals in private ownership). As a matter of policy, the Minister will only accept an application for a state mining lease or state mining licence if the applicant is the holder of a valid prospecting licence. The discovery

of minerals under a prospecting licence does not guarantee that the licence holder will be granted a mining lease or licence to exploit any minerals so found. On such a discovery of minerals, the Minister has the power to enter into an undertaking with the licence holder, which provides that on the Minister being satisfied the prospecting has been successful, the Minister will grant a mining licence or lease on terms to be agreed.

To proceed to production, all holders of prospecting licences are required to obtain planning permission from the relevant local authority along with an Integrated Pollution Prevention and Control licence from the Environmental Protection Agency (EPA).

Law stated - 17 April 2024

Renewal and transfer of mineral licences

What is the regime for the renewal and transfer of mineral licences?

On the expiry of a prospecting licence, normally at the end of six years, if the Minister is satisfied that the licence holder has fulfilled the obligations imposed by the licence and the holder will continue to satisfy the financial, technical, environmental and other requirements of the Minister, the Minister undertakes on the application made by the licensee in writing to grant a renewal of the licence. Such renewal is for a further term of such duration as the Minister may consider appropriate, provided that an application shall be made no later than the expiry of the licence or any term of renewal thereof and provided the holder undertakes to carry out a work programme acceptable to the Minister and can meet all associated expenditure as the Minister may require. Renewals are generally granted for a two-year period.

Prospecting licences provide that the holder cannot, without the prior written approval of the Minister, assign any rights granted by the licence to any person and cannot, without the prior written approval of the Minister, sub-licence or part with the possession of any of the rights thereunder. Any such consent would be conditional on the licence holder being in compliance with the terms of the licence, including all work programmes, having paid all amounts due to the Minister and having complied with the requirements to provide details of operations to the Minister. Compliance with relevant legislation, such as environmental, planning permission (prospecting is normally exempt from this) and health and safety legislation is also necessary.

The policy of the Minister is generally to allow a licence to be assigned to another member of the group of companies under common control with the licence holder provided that the Minister is satisfied that the new licence holder has the technical and financial ability (including insurance) to continue to carry out the obligations under the licence. The policy of the Minister is not to consent to the assignment of a licence outside of the same group of companies as the licence holder, other than pursuant to a valid joint-venture agreement approved by the Minister where such a transfer is required under the terms of the joint-venture agreement. The proposed assignee must satisfy the Minister that it has the technical and financial ability to continue to carry out the obligations.

Where there is a change of control of the holder of a prospecting licence or its parent, the approval of the Minister is not normally required and a notification generally suffices. In the case of a proposed change of control of the holder of a mining lease or mining licence, it would be advisable to obtain the prior approval of the Minister.

Planning permission required to commence mining activities will run with the land. The right of access required from the owner of the surface land will be subject to a private agreement to be negotiated between the parties.

The 2017 Act introduces the new concept of a retention licence, which can be granted where the Minister is satisfied that the holder of a prospecting licence, having carried out a programme of exploration, has discovered a mineral resource that cannot for the time being be developed due to environmental, access or other difficulties. The holder of a retention licence would be subject to a reduction or elimination of requirements with respect to the exploration programme and financial expenditures. A retention licence may be granted for some or all of the minerals the subject of the original licence or additional minerals if necessary. The area for which a retention licence is granted would be the area that covers the identified mineral resource and such other land as may be required for future mining operations and, therefore, would normally be only part of the area covered by the relevant prospecting licence.

Law stated - 17 April 2024

Duration of mining rights

What is the typical duration of mining rights? Is there a requirement to relinquish a portion of the mining rights to the government after a certain number of years?

Prospecting licences are normally granted for a period of six years subject to compliance with the obligations to maintain the licence in good standing and file work reports every two years. On the expiry of the licence or at the end of any additional term for which the licence is renewed, the Minister is satisfied that the licence holder has fulfilled the obligations imposed by the licence and the licensee will continue to satisfy the financial, technical, environmental and other requirements of the Minister, the Minister may undertake on an application made by the licensee in writing to grant a renewal of the licence. Such renewal will be for such duration as the Minister may consider appropriate, provided that an application shall be made no later than the expiration of the term of the licence or the expiry of any term of renewal of the licence and provided the licensee undertakes to carry out a work programme acceptable to the Minister and can meet all associated expenditure as the Minister may require for the further term of normally two years.

Prospecting licences provide that the licence holder must during the first two-year period carry out the scheme of prospecting including geological or geophysical survey and programme of test drilling agreed by the Minister. One month before the end of each subsequent two-year phase of the licence, if the holder wishes the licence to continue in force a work programme for the second or third two-year phase must be approved by the Minister.

Prospecting licences provide that failure by the licensee to comply with the obligations in the previous paragraph, complete approved work programmes or submit work reports satisfactory to the Minister one month before the end of each phase, may result in the immediate revocation of the licence. The licence authorises the Minister to revoke the licence if the Minister considers there are reasonable grounds for so doing. The 2017 Act provides for the renewal of a retention licence in the same way as for the renewal of a prospecting

licence, provided that the circumstances that justified the granting of the retention licence still pertain.

As a matter of policy, the Minister will only accept an application for a state mining lease or a state mining licence from the holder of a valid prospecting licence and planning permission over the area in question. State mining leases and state mining licences are negotiated on a case-by-case basis under the relevant legislation. State mining leases are granted for periods of between 10 and 30 years, while state mining licences are granted for periods of between eight and 30 years.

The 2017 Act provides for a new permit being a mining licence to be granted in respect of minerals whether state-owned or privately owned, or a combination of the two. Currently, different instruments (state mining licences or state mining leases) apply to different categories of ownership. It also provides that a licensee has the right to work and sell minerals subject to the duties imposed on the licensee elsewhere under the 2017 Act, including the duty to pay compensation for any damage or nuisance caused. The duration of a mining licence would be negotiated on a case-by-case basis with the Minister.

Law stated - 17 April 2024

Acquisition by domestic parties versus acquisition by foreign parties

Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

Irish law makes no distinction between mining rights that may be acquired by domestic and foreign parties. In practice, many joint ventures in relation to Irish mining assets include an Irish incorporated partner but this is often for the purpose of benefitting from Irish technical expertise or tax reasons rather than a legal requirement. However, under the 2017 Act, a mining licence can only be granted to a company that is incorporated under the laws of Ireland or another EU member state.

The Screening of Third Country Transactions Act 2023 regulates and monitors transactions involving parties based or incorporated in countries outside of the European Union or the European Economic Area (EEA). The Act is anticipated to commence in the third quarter of 2024. Under the Act, 'notifiable transactions' are required to be notified to the Minister for Enterprise, Trade and Employment not less than 10 days before the completion of the transaction. Notifiable transactions include the acquisition of a majority of the shares in certain companies or the interest in an asset. They also include an acquisition of an interest of from 25 per cent or less to more than 25 per cent in such a company or asset. Notifiable transactions could include such an acquisition of prospecting or mining assets or a company owning such assets. Following receipt of a notification, the Minister will issue a written 'screening notice' to the parties following the commencement of the review and will issue a 'screening decision' within 90 days from the date on which the screening notice in relation to the transaction is issued. The 90-day review period may be extended to 135 days. If notified, the test for the Minister to employ is whether the transaction would be likely to affect the security or public order of the state.

Law stated - 17 April 2024

Protection of mining rights

How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

Ownership of mines and minerals in Ireland is regulated pursuant to legislation including the Land Acts and the Minerals Development Acts 1940–1999 and is also subject to the common law. In general, the exclusive right to work (as opposed to the right to own) minerals vests in the Minister for Environment, Climate and Communications. The agency responsible for the regulation of mining is the GRO. In general, all minerals and mines in their original position are part of the land and ownership thereof rests with the owners of the surface other than those minerals and mines that belong to the state and other than any minerals specifically reserved. In summary, ownership of the surface land, unless otherwise conveyed, includes everything beneath or within it.

The exclusive right to work minerals vests in the Minister under the 1979 Act, subject to the main exception: that minerals being worked or developed on 15 December 1978 may be worked or developed by the owners of such minerals. These minerals are known as ‘excepted minerals’ and ownership of such minerals must be registered by the Mining Board. A person developing a mine on 15 December 1978 must apply to register the minerals so mined as excepted minerals – these are rare. If an application for registration is rejected by the Board or withdrawn, the right to work minerals vests in the Minister.

An owner of land may prospect for minerals on his or her own land. In all other cases, to explore for minerals in the state it is necessary to obtain a prospecting licence from the Minister pursuant to the 1940 Act.

Disputes regarding the ownership of mining rights are referred to the regular court system, with the identity of the relevant court being determined by the value of the claim. Claims above €75,000 are subject to the jurisdiction of the High Court. On this basis, most such disputes will be referred to the High Court. All Irish courts are part of an independent judicial system that adheres to the rule of law and due process. Where the Minister proposes to grant a state mining licence or lease, he or she must publish notice of this in at least one national daily newspaper. The Minister is also obliged to give to every person who may appear to him or her to have an estate or interest in the minerals notice of his or her proposal to grant a state mining licence or lease. Any such person is entitled to a reasonable opportunity of making representations to the Minister concerning the proposal.

The Minister has the power to refer any representations received from such a person to the Mining Board, which is an independent statutory body and has the power to review the decisions of the Minister. The Mining Board also has powers to decide on compensation for landowners or owners of minerals. Only persons appearing to the Minister to have an estate or interest in the minerals can insist on the Minister referring their representations to the Mining Board. The Mining Board then considers the representations and is required to hold an inquiry. Along with the Minister, the following persons are entitled to be heard at any such inquiry:

- persons making representations;
- any person claiming to have an interest in the minerals; or
-

any other person considered by the Mining Board to be substantially affected by the licence.

Referrals to the Mining Board are rare.

The recognition and enforcement of foreign arbitration awards in Ireland are governed by the Arbitration Act 2010 (the 2010 Act) and Order 56 of the Rules of the Superior Courts. The 2010 Act incorporates the UN Commission on International Trade Law's Model Law on International Commercial Arbitration (the Model Law). As a signatory to the New York Convention 1958, an arbitral award, irrespective of the country in which it was made (provided that country is a signatory of the New York Convention) must be recognised and enforced in Ireland unless one of the grounds set out in the Model Law exists. It is also possible to enforce foreign arbitral awards in Ireland where no convention or treaty applies.

Law stated - 17 April 2024

Surface rights

What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests or does the holder of the mineral tenure have priority over surface rights use?

A prospecting licence grants rights in relation to the exploration of the minerals and a mining licence or mining lease deals with the extraction or mining of those minerals. None provide for any right of the licence holder to have access to, occupy or own the land in respect of which the lease or licence is granted. As a result, it is the responsibility of the licence holder to obtain the permission of the owner of the relevant land. The licence holder will need to negotiate the terms of its access and occupation with the landowner usually in return for a fee agreed between the parties. In some cases, where a mining lease or licence has been granted, the holder will seek to purchase the freehold title to some or all of the relevant land. There is no provision in the legislation to compel a landowner to sell his or her land to the holder of a lease or licence and so the mining company must make the sale of the land attractive to the landowner.

A prospecting licence provides that a minimum of two weeks' advance notice in writing must be given to the Minister of the proposed borehole and shaft sinking intended to reach a depth of more than 20 feet below the surface and a journal of such shaft or borehole and specimens must be kept for inspection by the Minister. No excavation of trenches can be carried out without the prior written approval of the Minister. All drilling and trenching must be carried out in such a way as to facilitate proper reinstatement of the land, and the licence holder must observe all written directions given by the Minister.

In addition to these, two main statutory permissions are required to use the surface land for mining activities (which are not normally required for prospecting or exploration activities):

- planning permission under the Planning and Development Acts 2000–2015 is granted by the planning section of the local authority in which the mine or interest is situated; and
-

an Integrated Pollution Prevention and Control licence must be granted by the EPA pursuant to the Environmental Protection Agency Act 1992.

The Planning and Development Bill 2023 may result in planning and procedural changes when the legislation is finalised and enacted, as scheduled for later in 2024.

Law stated - 17 April 2024

Participation of government and state agencies

Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

Under the 1979 Act, the conditions attaching to a state mining lease or state mining licence may, with the concurrence of the Minister for Finance, include a condition giving the Minister the right to take a participating interest in the working of the minerals. Such a right is not always exercised although the Minister has wide discretion under the 1940 Act to charge the holder of a mining lease or mining licence an annual fixed (or dead) rent or a percentage royalty calculated on the proceeds of production subject to certain deductions including transportation costs, or both.

Under the 2017 Act, the Minister may, with the prior consent of both the Minister for Public Expenditure and Reform and the licence holder, take a participating interest in a state mining licence or provide in the licence for such a right in the future. It is not known to what extent this right will be exercised by the Minister or what the percentage of any participating interest might be.

There is no local listing requirement for a project company.

Law stated - 17 April 2024

Government expropriation of licences

Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

The Minister has the power to revoke or terminate a prospecting licence under the 1940 Act. Such a power could be exercised where the licence holder has failed to pay licence fees, becomes insolvent or fails to file work reports with the GRO. Such power of revocation is rarely exercised by the Minister and any such revocation would have to be exercised in accordance with natural and constitutional justice, which would require reasonable notice and an opportunity for the licence holder to make representations to the Minister. The Minister is also entitled to terminate a mining licence or mining lease in similar situations.

The 1979 Act deals with the compulsory acquisition of minerals. The starting point is that companies engaged in exploration must have reasonable certainty that if they discover minerals they will be allowed to mine them without risk of expropriation. Under the Irish Constitution, the right of a person to own private property, such as minerals, is protected. The 1979 Act vests in the Minister the exclusive right of working materials, save for any

developments existing in 1979. The Irish Supreme Court upholds a limited right of the state to compulsorily acquire private property, such as minerals, where this can be demonstrated to be in the common good, subject to review in the courts so that the right to private property is upheld and provided compensation is paid. The amount of any compensation if not agreed with the Minister would be decided by an independent body, the Mining Board and any decision of the Board is subject to appeal to the High Court.

The 1979 Act sets out the financial criteria for the assessment of compensation payable to owners of land being what is fair and reasonable having regard to all the circumstances of the case. This will be based on such proportion of the net profits arising in consequence of the working of the minerals attributable to those minerals as they existed in the land in their natural condition prior to such working. It is thought that this would be applied to a mining company. Compensation will be determined in the form of periodical payments unless the Mining Board or the Court is satisfied that such form of compensation would not of itself be appropriate and in such case, the Board or the Court may award compensation being either a lump-sum payment or partial lump sum and partly periodical payments. Instances, where the Minister has exercised the right to compulsorily acquire minerals owned by a mining company or revoke mining leases or mining licences, are rare.

Law stated - 17 April 2024

Protected areas

Are any areas designated as protected areas within your jurisdiction and which are off-limits to mineral exploration or mining, or specially regulated?

A standard term of all prospecting licences is that the holder must carry out all operations within the licensed area to avoid damage to the environment and the amenities in that area. This requires compliance with:

- the Wildlife Acts 1976 and 2000;
- the European Communities (Birds and Natural Habitats) Regulations 2011 (SI 477/2011);
- the European Communities Environmental Objectives (Surface Waters) Regulations 2009 (SI 272/2009);
- the European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations 2009 (SI 296/2009); and
- the National Monuments Acts 1930–2004 and regulations made thereunder.

The status of EU-protected habitats and species in Ireland

[Directive 92/43/EEC](#) on the Conservation of Habitats, Flora and Fauna (the Habitats Directive), was transposed into Irish law by [the Natural Habitats Regulations 1997](#) (SI 94/1997, as amended by SI 233/1998 and SI 378/2005). The main aim of the Habitats Directive is to contribute to the conservation of biodiversity by requiring EU member states to take measures to maintain or restore natural habitats and wild species designated

with favourable conservation status. These are habitats and species that are considered threatened. Natura 2000 is an EU network of important ecological sites regulated under the Habitats Directive. The network is made up of special protection areas (SPAs), established under Directive 79/409/EEC on the conservation of wild birds, and species action plans (SACs), established under the Habitats Directive.

The environmental implications of mining that are likely to have an impact on any SAC have to be assessed irrespective of the location of the development. In some cases, this may require a full environmental impact statement. In summary, an assessment providing that a proposed mine would have a significant effect on a national monument, SAC or SPA should be identified at an early stage as it would materially impact a planning permission application.

Law stated - 17 April 2024

DUTIES, ROYALTIES AND TAXES

Duties, royalties and taxes payable by private parties

What duties, royalties and taxes are payable by private parties carrying on mining activities? Are these revenue-based or profit-based?

Mining companies are liable to pay corporation tax of 25 per cent on mining activities (namely, extracting the ore from the ground).

The Minister has wide discretion under the 1940 Act to charge the holder of a mining lease or mining licence an annual fixed (or dead) rent or a percentage royalty calculated on the proceeds of production subject to certain deductions including transportation costs, or both. The annual rent payment merges into the royalty payment and the amount of the rent and royalty are negotiated individually. In the case of the Galmoy lead and zinc mine, the dead rent annual payment under the main licence was €126,000 for most of the mine's life along with an annual royalty varying between 1.5 per cent and 3 per cent. The Lisheen mine paid royalties at rates of between 1.5 per cent and 3.5 per cent.

The 2017 Act deals in greater detail with the payment and calculation of royalties and the Minister has the power to levy a range of royalties to be applied to mining licences, which will require the consent of the Minister for Public Expenditure and Reform. The method of calculation will be based on one or more of the following factors:

- the tonnage of minerals produced and removed from the mine;
- the revenue (as calculated by reference to the royalties regulations) generated by working the minerals; and
- profits derived from the minerals.

Rates of royalty must be based on the Minister's estimate of market royalty rates and, although the Minister is entitled to consider other factors, the Minister must have regard to the following factors:

- the quality, grade and value of mineral deposits normally found in the state;
- the general international practice of other countries with respect to setting royalties;

- existing domestic rates of royalties for similar minerals; and
- rates of royalties set out in mining leases and licences under the existing legislation.

The Minister is obliged, in setting the rates of royalty, to have regard for a fair and reasonable return for the state and the desire of licensees to obtain a commercial return on their investment.

The Minister will have the power to review the royalty rates at least every five years to ensure that they reflect market rates. The 2017 Act also allows the Minister to vary the number of royalties to be paid, or the period over which royalties are to be paid if special circumstances exist, and it is necessary to do so to attract investment in the state or to ensure the working of the minerals. It also allows for the payment of projected royalties in advance in one or more instalments but only in the case of state-owned minerals.

Law stated - 17 April 2024

Tax advantages and incentives

What tax advantages, tax credits and incentives are available to private parties carrying on exploration and mining activities?

Where certain conditions are met companies carrying on exploration and mining activities may avail of the mine development allowance. This relief provides for an allowance to be made in respect of certain capital expenditure on the development of a mine, the construction of mining works and exploration for, and testing of, mineral deposits. The amount of the allowance is the difference between the expenditure incurred and the amount the assets representing the expenditure are likely to be worth at the end of the life of the mine. Another allowance relates to an investment allowance in respect of exploration expenditure. An investment allowance of 20 per cent of exploration expenditure may be claimed in some situations.

Capital allowances are available for machinery and plant (wear and tear allowance) at 12.5 per cent for eight years. In addition, there is a special investment allowance of 20 per cent with respect to expenditure on the provision of new machinery and plant used for the purposes of working a mine. An annual allowance of 4 per cent of the expenditure incurred is available in respect of expenditure on the construction of industrial buildings.

Other allowances are available to private parties carrying on mining and exploration activities such as marginal mine allowance, Exploration expenditure (where expenditure is incurred, qualifies for an allowance of 100 per cent), annual allowance for mineral depletion and allowance for mine rehabilitation expenditure.

Law stated - 17 April 2024

Tax stabilisation

Does any legislation provide for tax stabilisation or are there tax stabilisation agreements in force?

There is no concept of tax stabilisation in Ireland.

Law stated - 17 April 2024

Carried interest

Is the government entitled to a carried interest, or a free carried interest in mining projects?

Under the Minerals Development Act 1979, the conditions attaching to a state mining lease or state mining licence may, with the concurrence of the Minister for Finance, include a condition giving the Minister the right to take a participating interest in the working of the minerals. Such right is often not exercised in recent years.

Under the 2017 Act, the Minister may with the prior consent of both the Minister for Public Expenditure and Reform and the licence holder take a participating interest in a state mining licence or provide in the licence for such a right in the future. It is not known to what extent this right will be exercised by the Minister or what the percentage of any participating interest might be.

Law stated - 17 April 2024

Transfer taxes and capital gains

Are there any transfer taxes or capital gains imposed regarding the transfer of licences?

Capital gains tax can arise for the transferor of either interest in a licence or an interest in land. Stamp duty may arise for the transferee of such an interest. In some situations, it is possible to claim exemption from capital gains tax or stamp duty on certain transfers of such interests between group companies. Capital gains tax or stamp duty can sometimes be minimised on a transfer of assets carried out as part of a re-organisation or reconstruction. Specialist tax advice should be obtained.

Law stated - 17 April 2024

Distinction between domestic parties and foreign parties

Is there any distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties?

There is no distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties. Duties, royalties and taxes are taxed according to the venue at which the product is located as opposed to the nationality of the parties involved.

Law stated - 17 April 2024

BUSINESS STRUCTURES

Principal business structures

What are the principal business structures used by private parties carrying on mining activities?

Parties carrying on mining activities are entitled to select their preferred corporate vehicle within broad parameters. Parties generally incorporate a company, with the most common entity being a company with limited liability and share capital. It is common for private parties to enter into a joint venture when carrying on mining activities in which case a joint venture agreement will govern the relationship between the parties. Either one party to the contract holds the appropriate licence or a joint venture company is incorporated to hold the licence and carry out mining activities and the parties are shareholders in the joint venture company.

Partnerships are also occasionally used by private parties. In the Lisheen mine, operations were primarily undertaken by two subsidiary entities: Lisheen Mine Partnership, which mined the raw ore, and Lisheen Milling Limited, which processed it. Lisheen Mine Partnership was comprised of Killoran Lisheen Mining Limited and Vedanta Lisheen Mining Limited.

Law stated - 17 April 2024

Local entity requirement

Is there a requirement that a local entity be a party to the transaction?

In general, there is no requirement for an Irish incorporated company to be a party to a mining transaction. However, under the 2017 Act, a mining licence can only be granted to a company that is incorporated under the laws of Ireland or another EU member state.

Law stated - 17 April 2024

Bilateral investment and tax treaties

Are there jurisdictions with favourable bilateral investment treaties or tax treaties with your jurisdiction through which foreign entities will commonly structure their operations in your jurisdiction?

Ireland, by virtue of its membership of the European Union, benefits from 82 treaties with investment provisions including treaties with China, India and Japan. These treaties promote and protect private investments made by foreign investors in Ireland. The treaties to which Ireland is a party apply to investments rather than applying specifically to the mining industry. There are currently 82 treaties to which Ireland is a party with investment provisions, of which 61 are in force.

On 24 October 2019, EU member states reached agreement on a plurilateral treaty for the termination of intra-EU bilateral investment treaties. The agreement was signed by 23 member states on 5 May 2020. This followed the findings of the European Court of Justice where it was held that intra-EU bilateral investment treaties were incompatible with the EU treaties.

Ireland has signed comprehensive double taxation agreements (DTAs) with 76 countries, of which 74 are in effect. The DTAs cover direct taxes, which in the case of Ireland are income tax, the universal social charge, corporation tax and capital gains tax.

Ireland ratified the Multilateral Convention to Implement Tax Treaty Related Measures to prevent Base Erosion and Profit Sharing (the MLI) in the Finance Act 2018. The MLI modifies the application of the majority of Ireland's DTAs. It implements agreed minimum standards and best practices to counter treaty abuse and improve dispute resolution mechanisms. It also provides flexibility to accommodate different tax treaty policies. More information on the MLI can be found on the website of the Irish Revenue Commissioners.

Further details of the treaties to which Ireland and the European Union are a party can be found on the United Nations Conference on Trade and Development website.

Law stated - 17 April 2024

FINANCING

Principal sources of financing

What are the principal sources of financing available to private parties carrying on mining activities? What role does the domestic public securities market play in financing the mining industry?

Mining companies typically finance their activities through cash reserves from existing mines, debt, equity and alternative funding. Joint ventures are often used by private companies to share finance, risk and expertise. Companies with existing production and a revenue stream can direct some of their profits into new exploration projects.

Equity finance is raised through common shares, preferred shares, warrants and debt-equity instruments. Mining share values track perennially cyclical metals prices and mining has seen at least four cycles since the year 2000. Sources of debt finance include term loan facilities and revolving credit facilities with financial institutions, debt securities such as convertible bonds and corporate bonds, and (occasionally) asset finance such as hire purchase, leasing and refinancing. While debt and equity finance are still the most popular sources of finance for mining companies, alternative funding via royalty or streaming financing is becoming more popular. Streaming creates a right for the purchaser to purchase all or a portion of one or more of the products from the mine while royalty financing creates a right to a percentage of revenue from the sale of production. Crowdfunding is an alternative method of financing mining projects, which is expected to grow, especially with the recent introduction of Regulation (EU) 2020/1503 on European crowdfunding service providers for business and the related amendments to Directive (EU) 2020/1504 on the Markets in Financial Instruments Directive II.

Many Irish incorporated companies are dual-listed on the London Stock Exchange (LSE) and the Irish Stock Exchange – the latter of which was acquired in March 2018 by Euronext and re-named Euronext Dublin. Several Irish resource and mining companies are listed only on the AIM, a sub-market of the LSE designed to help smaller companies access capital. As a consequence of Brexit, Certificateless Registry for Electronic Share Transfer, the electronic trading platform used by the LSE and Euronext Dublin, is no longer authorised to act as a central securities depository (CSD) for Irish un-certificated securities. Euroclear Bank, which operates a Belgium-based CSD, was selected to provide a replacement settlement system for securities of Irish companies listed or quoted on Euronext Dublin or the LSE. Migration to the new system, which required the approval of shareholders at an extraordinary general

meeting and revised arrangements with registrars, was completed in March 2021. As a result, relevant Irish securities will be held by Euroclear's nominee and trades in such securities will be settled in Belgian law contractual rights rather than the underlying security.

Dalradian is advancing its Curraghinalt gold-silver-copper project in County Tyrone. The Company is primarily funded by its US owners, Orion Mine Finance, with additional funding provided by Wheaton Precious Metals in late 2023. Prior to being acquired by Orion in 2018, Dalradian was listed on the Toronto Stock Exchange and the AIM.

Law stated - 17 April 2024

Direct financing from government or major pension funds

Does the government, its agencies or major pension funds provide direct financing to mining projects?

The Irish government does not normally provide finance to mining projects.

Law stated - 17 April 2024

Security regime

Please describe the regime for taking security over mining interests.

A mortgage or charge may be granted in respect of the land or an interest in land in relation to which a prospecting licence or mining licence or lease is granted. Such a mortgage or charge would be registered in either the Land Registry or the Registry of Deeds, and in the case of a company, details would be required to be registered by that company in the Companies Registration Office. In this way, it could be said that the licence or lease 'runs with the land'. However, in each case, this requires ownership of legal title to the relevant land. Where the holder of such a licence or lease does not own the land in relation to which the licence or lease is granted the holder does not under Irish law have an interest that may be registered against the lands subject to the following. A company that holds a licence or lease may grant a charge or a floating charge over either some or all of its assets, which might include such a licence or lease, and such a charge, if granted by a company, must be registered in the Companies Registration Office. If the mortgage or charge were to be enforced this might be subject to the consent of the Minister and it is uncertain that the Minister would consent (and the terms of a mining lease or licence may preclude granting a mortgage or charge over it without the consent of the Minister).

The Minister does not maintain, and Irish law does not provide for, a register to record any interests reserved or derived from a licence or lease such as royalties, net profits interests or similar rights. The 2017 Act does not change this.

Law stated - 17 April 2024

RESTRICTIONS

Importation restrictions

What restrictions are imposed on the importation of machinery and equipment or services required in connection with exploration and extraction?

As Ireland is an EU member state, it is unable to introduce import controls at a national level other than some limited exceptions that include public health and security considerations.

Machinery and related equipment are regulated for safety under EU law to ensure uniformity across the European Union. Importers of machinery into the European Union must comply with Directive 2006/42/EC (Machinery) transposed into national law by the 2008 European Communities (Machinery) Regulations. This Directive applies to the import of non-compliant machinery including second-hand equipment into the European Union, making the importer responsible for bringing the machinery into EU uniformity.

Sanctions and trade embargoes apply to countries such as Iran, Libya and North Korea. Sanctions, also known as restrictive measures, are implemented by the European Union, often as a result of binding resolutions of the Security Council of the United Nations. Examples of recent sanctions in place by the European Union include 10 packages of economic and individual sanctions, which have been adopted due to the Russian invasion of Ukraine in 2022. These sanctions have been introduced by EU Council Regulations applied in 2022 and 2023. Recent sanctions in 2023 and 2024 have been applied through Council Regulations (EU) 2023/426, 2023/427, 2023/428, 2023/429, 2023/430 2023/1214 and 2023/2878.

Countries currently subject to UN and EU sanctions are Afghanistan, Belarus, Bosnia and Herzegovina, Burundi, Central African Republic, China, Democratic Republic of Congo, Guatemala, Guinea, Guinea-Bissau, Haiti, Iran, Iraq, Lebanon, Libya, Mali, Moldova, Montenegro, Myanmar, Nicaragua, North Korea, Russia, Serbia, Somalia, South Sudan, Sudan, Syria, Tunisia, Turkey, Ukraine, Venezuela, Yemen and Zimbabwe.

The importation of chemicals from the United Kingdom listed in the Rotterdam Convention must be notified by the authority in the exporting country. Irish importers of chemicals may be required to submit an annual report to the Health and Safety Authority of the quantity of substances. Since Brexit, there have been some delays in Ireland regarding the importation of machinery due to customs and border checks, although work is being undertaken on both sides to alleviate these delays.

Certain additional restrictions may also be imposed on the importation of chemical substances and machinery in the mining industry, namely:

- Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures imposes requirements on suppliers and importers of chemicals in relation to classification, labelling and the packaging of chemicals;
- shipments of radioactive substances within the European Union are governed by Directive No. 1493/83 (Euratom). A licence from the Environmental Protection Agency may be required as this area is highly regulated; and
- Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) legislation should also be considered. REACH switches responsibility for the control and safety of chemicals from authorities to chemical manufacturers, importers and users and places greater responsibility on industry to manage risks that chemicals may pose to human health and the environment.

Law stated - 17 April 2024

Standard conditions and agreements

Which standard conditions and agreements covering equipment supplies are used in your jurisdiction?

In Ireland, companies that supply equipment are likely to trade on their own tailored terms and conditions and there will likely be little room for negotiation. If a supply company has a very sophisticated level of expertise and has few competitors, it would be highly unlikely for the customer to introduce its own terms and conditions.

Contracts issued by the International Federation of Consulting Engineers are often adopted in relation to international engineering and construction projects.

Standard-form contracts regarding building and engineering works issued by Engineers Ireland, the representative body for engineers in Ireland, are often used.

Law stated - 17 April 2024

Mineral restrictions

What restrictions are imposed on the processing, export or sale of minerals? Are there any export quotas, licensing or other mechanisms that prevent producers from freely exporting their production?

Materials that could be used in nuclear, chemical and other explosive devices are subject to Irish and EU export control laws. Exports to countries in relation to which the European Union has imposed sanctions and trade embargoes are also restricted. The European Union operates a system of controls on the export of sensitive items from EU member states in the form of Regulation (EC) No. 428/2009, which governs the EU's export control regime. Exports of dual-use items (products and components, including software and technology that can be used for both civil and military purposes) and exports to countries subject to EU trade sanctions, are subject to controls. Export licences for controlled exports must be obtained from the Department of Enterprise, Trade and Employment.

New sanctions in relation to dual-use items and metals have been introduced by the European Union in response to the Russian invasion of Ukraine in 2022. These sanctions were introduced under Council Regulation (EU) 2022/328, Council Implementing Regulation 2022/427 and Council Regulation (EU) 2023/427 (amending Regulation 833/2014), which prohibits the transit of dual-use goods via the territory of Russia to third countries.

Law stated - 17 April 2024

Import of funds restrictions

What restrictions are imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals?

There are no restrictions imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals in Ireland. There are no Irish law foreign exchange controls in general. However, the Minister for Finance can restrict financial transfers between Ireland and other countries if the restrictions conform with EU law. EU and UN sanctions should be consulted before funds are imported for exploration and extraction. Irish anti-money laundering regulations may be relevant.

Law stated - 17 April 2024

ENVIRONMENT

Principal applicable environmental laws

What are the principal environmental laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The Environmental Protection Agency Act 1992 is the core legislation in Ireland, which is supplemented by a number of EU directives, many of which have been transposed into law in Ireland. The Environmental Protection Agency (EPA) is the main agency responsible for enforcing environmental laws in Ireland. For mining projects, the EPA works in conjunction with the planning authorities and the Geoscience Regulation Office, a division of the Department of Environment, Climate and Communications.

Mining activities are generally subject to Directive 85/337/EEC (the Environmental Impact Assessment Directive), meaning that an environmental impact assessment (EIA) must be carried out and approved by the EPA before a mining project may take place. A mining project will require an integrated pollution control (IPC) licence or an industrial emissions (IE) licence from the EPA and the EIA will form part of the licence application process. The class of activity will determine whether an IE or an IPC is required. EPA licence requirements for mining projects are derived from Directive 2008/1/EC concerning integrated pollution prevention and control and Directive 2010/75/EU (the Industrial Emissions Directive), both of which have been transposed into law in Ireland.

Directive 92/43/EEC on the Conservation of Habitats, Flora and Fauna and the Irish Waste Management (Management of Waste from the Extractive Industries) Regulations 2009 are significant for mining projects. The Waste Management Regulations deal with mine waste and they also set out the requirements for closure and after-care of the mine. Other Irish environmental-related legislation that may be applicable to a mining project in Ireland include:

- the EC Environmental Objectives (Surface Waters) (Amendment) Regulations 2012;
- the EC Environmental Objectives (Groundwater) Regulations (SI 9/2010); and
- the Control of Major Accident Hazards Regulations 2015.

Common law rules must also be considered by companies operating in Ireland, particularly rules of tort law such as the duty of care, nuisance and the rule in *Rylands v Fletcher* (which deals with the storage and release of hazardous substances).

Law stated - 17 April 2024

Environmental review and permitting process

What is the environmental review and permitting process for a mining project? How long does it normally take to obtain the necessary permits?

Along with a state mining lease or state mining licence, a mining project requires planning permission under the Planning and Development Act 2000 and an EPA licence before the commencement of production.

There are two types of licence granted by the EPA: an IE licence and an IPC licence. Mining projects normally require an IPC licence but some projects require an industrial emissions licence instead because the mine carries out activities that fall under the Industrial Emissions Directive. For example, a mine would require an industrial emissions licence if it had a landfill or if there are hazardous substances on site. The EPA operates a streamlined process for the IPC and industrial emissions licences.

Applicants are encouraged to make pre-application enquiries to the EPA. The applicant commences the process by publishing notice of its intention to apply for an EPA licence in a newspaper, erecting a site notice and notifying the planning authority. The application submitted to the EPA will generally require an environmental impact assessment report, environmental liabilities risk assessment, Natura 2000 impact statement and a closure, restoration and aftercare management plan (CRAMP). The EPA may request additional information from the applicant and may review submissions received from any person. The EPA liaises with the planning authority and the Department of the Environment, Climate and Communications during the application process. The EPA will issue a proposed determination to all notified parties. The proposed determination may be subject to objections and the applicant or an objector may request an oral hearing. After the EPA has considered any objections and the oral hearing takes place, the EPA issues a final determination. Parties have eight weeks to apply for a judicial review of the decision in the High Court.

A decision to grant planning permission is normally subject to appeal to the planning appeals authority, An Bord Pleanála. An application for judicial review must be made within eight weeks from the date on which the licence is granted or from the date on which the decision not to grant the licence is made. The review and permitting procedure is generally a year-long process but in some situations has taken longer.

Related requirements are sometimes imposed as a condition of planning permission. These include a construction and environmental management plan detailing groundwater and surface-water management measures along with a programme of pre-development of archaeological test-trenching by a qualified archaeologist in accordance with the National Monuments Acts 1930–2004. Drainage channels may need to comply with the Guidelines on Protection of Fisheries, published by Fisheries Ireland in 2016.

Law stated - 17 April 2024

Sustainability

Do government agencies or other institutions in your jurisdiction provide incentives or publish environmental and social governance (ESG) guidelines for green projects?

Enterprise Ireland is an Irish government agency that provides grants and other financial support to green projects. Some of these financial supports assist established companies to become more environmentally friendly while there are also other financial supports available for green start-ups. Enterprise Ireland granted €4.6 million to the Irish Bioeconomy Foundation to fund the Irish Bioeconomy Pilot facility located at the former Lisheen zinc mine, which will be re-purposed as a national centre for bioeconomy research.

Directive 2003/87/EC (the Emissions Trading Directive), which has been transposed into Irish law, covers factories, power stations and other participants. It operates under a cap-and-trade system whereby participants have a limit on the amount of emissions they may produce and must purchase additional allowances if they exceed the limit. Participants that achieve emissions targets under the limit may sell their surplus allowances. There is a cap on the total number of allowances in the market.

Law stated - 17 April 2024

Closure and remediation process

What is the closure and remediation process for a mining project? What performance bonds, guarantees and other financial assurances are required?

The EPA licence application must set out a detailed CRAMP for the mine. The CRAMP sets out the requirements and costings for the closure of the mine and tailings facilities. The closure and remediation process will normally commence before operations cease in the mine. An environmental liabilities risk assessment will likely be carried out to ensure that adequate financial provisions are in place. Environmental liabilities are generally divided into two categories: known and unknown liabilities. Known liabilities are the liabilities expected to occur during the closure, restoration and aftercare of the mine. Known liabilities are quantified in the CRAMP, while unknown liabilities are quantified in the environmental liabilities risk assessment.

EPA-regulated facilities are required to put in place financial provisions to cover the costs and liabilities identified in the CRAMP. Once the costs of closure and remediation have been agreed with the EPA, there are several options available for financial provisions, depending on the situation. An insurance policy will normally be required to cover the unknown liabilities identified in the environmental liabilities risk assessment. An insurance policy may not cover the costs of known liabilities such as the closure of a mining facility.

Normally, a mining project will be required to put a mine closure bond in place to cover the known costs of closure and remediation. When executed, the bond is held under the control of the relevant planning authorities, the EPA and the Department.

The CRAMP is reviewed regularly to ensure that the estimates accurately reflect mine closure costs and that the financial provisions provided for the mining project are sufficient to cover such costs. The arrangements surrounding the closure of the Galmoy mine, particularly in

relation to the design and management of the tailing management facility, are considered best practice in Ireland.

Law stated - 17 April 2024

Restrictions on building tailings or waste dams

What are the restrictions for building tailings or waste dams?

Planning permission from the local planning authority and a licence from the EPA are required to build or extend a tailings or waste dam. The applicant must submit an environmental impact statement in accordance with the Environmental Impact Assessment Directive and a Natura 2000 impact statement in accordance with the European Communities (Birds and Natural Habitats) Regulations 2011 (SI 477/2011) may also be required. In addition, the local planning authority will decide to grant or refuse planning permission, which may be appealed to An Bord Pleanála.

The Waste Management (Management of Waste from the Extractive Industries) Regulations 2009 are the main legislation regulating the management of tailing or waste dams for mining projects. The EPA is responsible for enforcing compliance with these regulations. An extractive waste management plan will be reviewed by the EPA before granting a licence to build tailings or waste dams. Mines are normally inspected annually by the EPA, although larger mines may be inspected more regularly depending on the nature of their activities. When a mine is being closed, the EPA will be on-site regularly to assist with CRAMP implementation.

A suitably qualified independent consultant must provide a certificate confirming the structural soundness and stability of the tailings dam to the relevant planning authority following an independent audit of the site. This audit is normally carried out in accordance with the procedures included in the UK Reservoirs Act 1975 or other equivalent legislation. An acceptable independent consultant would be a member of the UK reservoir panel, or another equivalent, with proven experience in the design, operation and inspection of tailings dams.

The planning authorities may require an emergency response plan, which would provide details of any proposed tailings or waste dam.

Law stated - 17 April 2024

HEALTH AND SAFETY, AND LABOUR ISSUES

Principal health and safety, and labour laws

What are the principal health and safety, and labour laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

The Safety, Health and Welfare at Work Act 2005 also applies to workplaces generally. The Safety, Health and Welfare at Work (Mines) Regulations apply specifically to mining activities in Ireland. This legislation, which is administered by the Health and Safety Authority, sets out the duties and obligations of mining operators and managers and places an emphasis on reporting dangerous incidences. The Health and Safety Authority is the national statutory

body tasked with ensuring all workers are protected from work-related injury and ill-health and oversees compliance with legislation, while the Workplace Relations Commission oversees compliance with relevant workplace legislation generally.

Employers operating mines will also be subject to a variety of other common law and statutory provisions that govern employment in Ireland such as:

- the Organisation of Working Time Act 1997;
- the Payment of Wages Act 1991; and
- the Employment Equality Acts 1998–2015.

Employers must ensure that all employees are afforded their rights thereunder.

Law stated - 17 April 2024

Management and recycling of mining waste

What are the rules related to management and recycling of mining waste products? Who has title and the right to explore and exploit mining waste products in tailings ponds and waste piles?

Ireland's waste legislation is founded on Directive 2006/21/EC (the Mining Waste Directive), which is transposed into Irish law by the Waste Management (Management of Waste From the Extractive Industries) Regulations 2009 (SI 566/2009). The Mining Waste Directive sets up the framework for managing waste from extractive industries such as mining and seeks to ensure that extractive industries manage waste appropriately throughout the entire life cycle of a mine.

The Mining Waste Directive introduced the requirement to obtain a permit to operate a mining waste facility. A key requirement of the Directive is for the mine operator to develop a waste management plan to be approved by the Environmental Protection Agency, which sets out the type and quantity of waste produced. The risk to the environment and impact on human health from the waste is also considered in the plan.

Law stated - 17 April 2024

Use of domestic and foreign employees

What restrictions and limitations are imposed on the use of domestic and foreign employees in connection with mining activities?

There are, in general, no restrictions applicable in relation to the employment in exploration or mining activities of Irish, UK or EEA (the European Union along with Iceland, Liechtenstein and Norway) nationals and none require separate work permissions. However, employees from other countries such as the United States and Canada typically would require a valid work permit to work in Ireland. There are a number of work permits available but the most common are the critical skills employment permit and the general employment permit. Whether or not an individual is eligible for a work permit will depend on a number of factors, such as the type of role, salary, experience of the individual and the number of jobs available.

Usually, a work permit is issued for two years but may be extended for a further three years. All work permits require that 50 per cent of a company's employees would be made up of EEA nationals. For general work permits there is also a labour market needs test, which requires the role to be advertised.

Law stated - 17 April 2024

SOCIAL AND COMMUNITY ISSUES

Community engagement and CSR

What are the principal community engagement or corporate and social responsibility (CSR) laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

Directive 2014/95/EU (the Non-Financial Reporting Directive), transposed into Irish law as SI 360/2017, sets out the rules on the disclosure of non-financial and diversity information by large companies. The requirements of the Non-Financial Reporting Directive apply to large public-interest companies with more than 500 employees. Under the Directive, large companies must publish annual reports on the policies they implement in relation to:

- environmental protection;
- social responsibility;
- treatment of employees;
- respect for human rights;
- anti-corruption and bribery; and
- diversity on company boards.

The European Commission has since reviewed the Directive with the aim of ensuring that companies provide more and better information about their social and environmental performance and impacts. The review was carried out in the wake of the European Commission's Communication on the European Green Deal to possibly revise the provisions of the Directive.

On 1 January 2021, Regulation (EU) 2017/821 (the Conflict Minerals Regulation) came into force and aims to help stem the trade in tin, tantalum, tungsten and gold (3TG) that have been known to finance armed conflict or are mined using forced labour. The new Conflict Minerals Regulation aims to ensure that importers of 3TG meet international responsible sourcing standards set by the Organisation for Economic Co-operation and Development, assure that global and EU smelters and refiners of 3TG source responsibly, break the link between conflict and the illegal exploitation of minerals and put an end to the exploitation and abuse of local communities.

The directors of Irish incorporated companies are required, under the Companies Act 2014, to have regard in the performance of their functions to the interests of the company's employees in general. Many companies in the Irish mining industry adopt their own CSR involving a substantial investment in local communities.

Law stated - 17 April 2024

Rights of aboriginal, indigenous or disadvantaged peoples

How do the rights of aboriginal, indigenous or currently or previously disadvantaged peoples affect the acquisition or exercise of mining rights?

There is no concept of aboriginal or indigenous people in Irish law. The rights of currently or previously disadvantaged people are not normally relevant in this context.

Law stated - 17 April 2024

International law

What international treaties, conventions or protocols relating to CSR issues are applicable in your jurisdiction?

Ireland has adopted the UN Global Compact, a UN pact that encourages companies worldwide to adopt sustainable and socially responsible policies and to report on their implementation. The UN Global Compact contains 10 principles in the areas of human rights, labour, environment and anti-corruption. Other guidelines, declarations and treaties regarding CSR that Ireland has approved are:

- the International Covenant on Civil and Political Rights 1966;
- the OECD Guidelines for Multinational Enterprises 1976;
- the International Labour Organization's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration 1977);
- the Protocol of 2014 to the Forced Labour Convention; and
- the International Covenant on Economic, Social and Cultural Rights 1966.

Law stated - 17 April 2024

ANTI-BRIBERY AND CORRUPT PRACTICES

Local legislation

Describe any local legislation governing anti-bribery and corrupt practices.

The Criminal Justice (Corruption Offences) Act 2018 is the principal legislation in Ireland dealing with anti-bribery and corruption. This Act implemented Directive (EU) 2015/849 (the Fourth Money Laundering Directive) and consolidated the existing Irish anti-bribery and corruption legislation. The main corruption and bribery offences are provided for in the Act. Under the Act, a company may be guilty of an offence for the conduct of its officers, secretary, agents or employees.

The Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 was enacted by the Irish Parliament and signed into law on 18 March 2021. The Act was commenced on 23 April 2021 and has transposed many of the provisions of Directive (EU) 2018/843 (the Fifth Money Laundering Directive). The Act has introduced anti-money

laundering regulation for 'virtual asset service providers', who are service providers dealing with cryptocurrencies or other 'virtual assets', or both. The Act has also provided additional safeguards for transactions to and from high-risk countries.

Law stated - 17 April 2024

Foreign legislation

Do companies in your country pay particular attention to any foreign legislation governing anti-bribery and foreign corrupt practices in your jurisdiction?

Ireland is a signatory to several international agreements including:

- the EU Convention on the Protection of the European Communities Financial Interests (and Protocols);
- the Organisation for Economic Co-operation and Development Convention on Combatting Bribery of Foreign Officials in International Business Transactions;
- the Council of Europe Criminal Law Convention on Corruption;
- the Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union;
- the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption;
- the UN Convention against Transnational Organised Crime; and
- the UN Convention against Corruption.

Irish companies are advised to abide by the policies and procedures set out in these agreements.

Multinational companies in Ireland are normally required to comply with the local anti-bribery and corruption laws in other jurisdictions in which they operate. The US Foreign Corrupt Practices Act is the main bribery and corruption legislation in the United States that could be applied to the activities in Ireland of United States corporations or their subsidiaries.

Law stated - 17 April 2024

Disclosure of payments by resource companies

Has your jurisdiction enacted legislation or adopted international best practices regarding disclosure of payments by resource companies to government entities in accordance with the Extractive Industries Transparency Initiative (EITI) Standard?

Although Ireland is not a member of the Extractive Industries Transparency Initiative (EITI), many Irish companies are members of the EITI and subscribe to its reporting system. Under the Electoral Act 1997, Irish companies are required to provide details of contributions made for political purposes to any political party, member of the Irish Parliament, member of the

European Parliament or candidate in any Irish parliamentary or European election in the annual return of the company filed in the Companies Registration Office.

Law stated - 17 April 2024

FOREIGN INVESTMENT

Foreign ownership restrictions

Are there any foreign ownership restrictions in your jurisdiction relevant to the mining industry?

Under the Minerals Development Act 2017, a mining licence can only be granted to a company that is incorporated under the laws of Ireland or another EU member state. Where a beneficial owner of shares is based in a country that is at high risk of being sanctioned, then EU and UN sanctions should be consulted before applying for a mining licence in Ireland.

Law stated - 17 April 2024

INTERNATIONAL TREATIES

Applicable international treaties

What international treaties apply to the mining industry or an investment in the mining industry?

Ireland is a party to 28 investment-related instruments, including the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 and the OECD Principles of Corporate Governance. Ireland, by virtue of its membership of the European Union, benefits from 77 treaties with investment provisions including treaties with China, India and Japan. The treaties to which Ireland is a party apply to investment generally rather than applying specifically to the mining industry.

Ireland is a party to 76 double taxation treaties with other countries, of which 74 are in effect.

Law stated - 17 April 2024

UPDATE AND TRENDS

Recent developments

What were the biggest mining news events over the past year in your jurisdiction and what were the implications? What are the current trends and developments in your jurisdiction's mining industry (legislation, major cases, significant transactions)?

Tara mine, the largest zinc mine in Europe, operated by Boliden, was the only active metals mine in Ireland. Tara mine was temporarily shut down in June 2023 and was placed under care and maintenance. In April 2024 an agreement in principle was reached to reopen Tara mine on a gradual basis. Glencore owns a potentially significant zinc-lead exploration prospect at Pallas Green, County Limerick.

There is considerable interest in mineral exploration on the island of Ireland. In 2022, the United Kingdom released its Critical Minerals Strategy, which has as its initial aim 'accelerating domestic supply'. Dalradian is advancing a proposed underground gold-silver-copper mine in County Tyrone, Northern Ireland. To date, Dalradian has spent over £130 million on the project. The planning application for the mine will be the subject of an independent public inquiry, in September 2024. If approved, construction should begin in short order and will take around 24 months to create an active mining site. The project requires a capital investment of £108 million and will create a local supply chain of £750 million over the life of the mine. During the period covered by the planning application (20–25 years), Dalradian estimates production of approximately 3.5 million ounces of gold, 850,000 ounces of silver and 15,000 tonnes of copper and creation of a total of about 1,000 jobs (direct, indirect and induced). This is in addition to the jobs to be created during the construction phase.

Another Canadian company, Galantas, owns, and recently operated, a producing open-pit gold mine near Omagh, County Tyrone, Northern Ireland. The mine also produces by-products of silver and lead. The mine has now received planning permits to continue to mine underground, and Galantas has completed part of a drilling exploration programme.

Lithium exploration is being carried out in the Avalonia lithium project in counties Carlow, Dublin and Wicklow by leading Chinese lithium manufacturer Ganfeng Lithium Coin a joint venture with a Canadian TSX-Ventures company International Lithium, which comprises 11 mineral exploration licences.

Drummond underground mine, located in County Monaghan, produces gypsum for the construction industry. Previously, an opencast gypsum mine was operated nearby.

The judgment of the Supreme Court handed down on 1 July 2020 in the case of *An Taisce/Peter Sweetman v An Bord Pleanála and J McQuaid* has an important knock-on effect on quarrying operations in Ireland. The judgment addressed the use of the 'substituted consent' procedure under the Planning and Development Act 2000 (as amended) in light of EU law, including Directive 85/337/EEC (the Environmental Impact Assessment Directive). Before the judgment, the substitute consent procedure, a form of retrospective planning permission, was often adopted by owners of quarrying operations after the quarrying operations had commenced. It allowed the operator to be granted planning permission, in some cases, without filing an environmental impact assessment and the usual period of public notice and consultation. The result of the judgment is that the use of substituted consent or retrospective regularisation in relation to retention planning permission for quarrying operations has been severely restricted.

Finally, the EU Critical Raw Materials (CRMs) Act was published on 16 March 2023. The CRMs Act will aim to deal with the increasing demand for CRMs and address CRM supply chain issues. It is anticipated the CRMs Act will improve CRM extraction, processing and recycling while maintaining environmentally responsible practices. The Act sets out a benchmark for EU processing capacity to meet at least 40 per cent of the European Union's annual consumption of strategic raw materials.

The Act is in the form of a Regulation, which means it will have direct effect across EU member states. Measures at national levels will not be required for the initial implementation of the Act. Within 12 months of the CRMs Act entering into force, the European Commission is expected to publish implementing acts setting out products, components and waste

streams containing critical raw materials for potential recovery. Within 24 months of such publications, EU member states will be required to adopt national programmes, which encourage resource efficiencies.

Law stated - 17 April 2024