



# Highlights of the Governance and Administrative Framework of the Petroleum Industry



The Petroleum Industry Act (“PIA”) was assented to by the President of the Federal Republic of Nigeria on the 16th of August 2021. Stakeholders are hopeful that the provisions of the recently passed PIA would encourage the inflow of foreign direct investment and also kick start stalled activities in the industry particularly in the gas sector. In the light of the above, we have reviewed the Act and highlighted its key governance and administrative provisions.



# A. Governance Framework

## 1. Ministerial Powers

1.1. The Minister of Petroleum Resources (“Minister”) retains oversight and supervisory powers over the petroleum industry. The Minister also retains the right of pre-emption of petroleum or petroleum products in the event of a national emergency.

1.2. The Minister can grant and revoke Prospecting Licenses and Mining Leases upon the recommendation of the Nigerian Petroleum Regulatory Commission (“the Commission”). The Minister, upon recommendation of the Commission, can direct in writing the suspension of petroleum operations in any area where a contravention of the PIA or its subsidiary regulation has occurred or is likely to occur.

1.3. The Minister can give general policy directives to the Commission and the Midstream and Downstream Regulatory Authority (“Authority”) on matters concerning upstream petroleum, midstream and downstream operations

## 2. Institutions

1.1. There are two institutions under the PIA: the Nigerian Upstream Regulatory Commission (the “Commission”) and the Midstream and Downstream Regulatory Authority (the “Authority”). The PIA also establishes the Nigeria National Petroleum Company Limited (“NNPC Limited”) (successor company to the Nigeria National Petroleum Corporation).

1.2. The Commission takes over the upstream regulatory functions of the Department of Petroleum Resources (“DPR”) including the establishment, monitoring and regulation of health, safety and environmental standards relating to upstream petroleum operations, as well as to inquire, inspect, examine or investigate business or other activities in the upstream petroleum sector.

2.3. The Midstream and Downstream Regulatory Authority (the "Authority"), is responsible for the technical and commercial regulation of midstream and downstream petroleum operations in the petroleum industry including the responsibility to ensure efficient, safe and sustainable infrastructural development of midstream and downstream petroleum operations. Some of the Authority's functions also include the determination of the appropriate tariff methodology for processing of natural gas, transportation and transmission of natural gas, transportation of crude oil and bulk storage of crude oil. The Authority can also make regulations regarding processing, refining, transmission, distribution, supply, sale and storage of petroleum and petroleum products as well as other midstream and downstream petroleum operations.

2.4. The Nigerian National Petroleum Company Limited shall be the successor company to the Nigerian National Petroleum Corporation ("NNPC"). The Minister shall incorporate the Nigerian National Petroleum Company Limited (NNPC Limited) within 6 months of the passage of the PIA, and shall thereafter consult with the Minister of Finance to determine the number and nominal value of the shares to be allotted, which shall form the initial paid-up share capital of NNPC Limited and the Government shall subscribe and pay cash for the shares whilst the assets, interests and liabilities of NNPC shall be transferred to NNPC Limited or its subsidiaries.

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# B. Administrative Framework of the PIA

## 3. Upstream Petroleum Operations

### 3.1. Administration of Acreage and Upstream Petroleum Operations

All matters relating to upstream petroleum operations shall be administered by the Commission which shall carry on the same technical and commercial regulatory functions that are currently under the purview of the Department of Petroleum Resources.

### 3.2. Licences and leases

Type of Licence /Lease	Activity	Duration
Petroleum Exploration Licence	explore petroleum on a non-exclusive basis	3 years renewable for another 3 years
Petroleum Prospecting Licence	drill exploration and appraisal wells and do corresponding test production on an exclusive basis; and to carry out petroleum exploration operations on a non-exclusive basis	Onshore and shallow water acreages: initial exploration period of 3 years and optional extension of 3 years Deep offshore and frontier acreages: initial exploration period of 5 years and an optional extension of 5 years
Petroleum Mining Lease	to win, work, carry away and dispose of crude oil, condensates and natural gas on an exclusive basis; drill exploration and appraisal wells and carry out the related test production on an exclusive basis; and carry out petroleum exploration operations on a non-exclusive basis	Maximum period of 20 years which term shall include the development period.



Ministerial consent regarding an application for a licence or a lease ought to be granted within 60 days after the recommendation of the Commission and where consent or disapproval is not communicated after 90 days of receipt of the recommendation of the Commission, consent shall be deemed to have been given by the Minister ([Deemed Consent](#)).

### **3.3. Assignment and Transfer of Interests**

The Act provides that a petroleum prospecting licence or petroleum mining lease holder shall not assign, novate or transfer his licence or lease or any right, power or interest without prior written consent of the Minister granted upon the recommendation of the Commission. [A change of control in the holder of a Licence or lease or the holder of an interest shall be deemed to be an assignment.](#)

#### **3.4. Domestic Crude Supply Obligation**

The Commission may issue regulations or guidelines on the mechanism for the imposition of a domestic crude oil supply obligation on lessees of upstream petroleum operations. The supply of crude oil and condensates for the domestic market shall, subject to regulations or guidelines that the Commission may issue, be on a willing supplier and willing buyer basis.

#### **3.5. Domestic Gas Delivery Obligation**

The PIA empowers the Commission to make regulations or guidelines regarding the domestic gas delivery obligations of all lessees before 1st March of each year based on the domestic gas demand requirement. The Commission must ensure that every lessee complies with its expected domestic gas delivery obligation and compliance with the domestic gas delivery obligation shall be a prerequisite for approval of the supply of natural gas for export projects by lessees.



## 4. Midstream and Downstream Operations

### 4.1 Licensing Terms

The Nigerian Midstream and Downstream Petroleum Regulatory Authority (“the Authority”) is the body vested with the power to grant, renew, modify or extend Individual licences or permits for midstream or downstream petroleum operations. The Authority shall make regulations and guidelines for the grant or renewal of licence, third party access to facilities and pipelines and on tariffs consistent with the tariff methodology.

### 4.2. Revocation of Licences and Permits

A license or permit may be revoked where a holder;

- a) Becomes insolvent
- b) Transforms or dissolves unless it is for the purpose of amalgamation or reconstruction and provided the prior consent of the Commission has been obtained
- c) Fails to commence activities within the timescale prescribed in the license or permit
- d) Fails to comply with applicable laws and regulations on terms and conditions of its Licence or Permit
- e) Interrupts midstream or downstream petroleum operations for a period of more than 180 consecutive days without justification;
- f) Assigns or transfers any interest in the licence or permit without obtaining the prior written consent of the Authority;
- g) Acquired the licence or permit based on false representation or contrary to corrupt practices and money laundering Laws;
- h) Failed to comply with environmental obligations as required by law or the provisions of the licence or permit;
- l) Is owned wholly or in part, directly or indirectly or is controlled by a former or serving public official or member of the Government, who obtained his interest in the applicable licence or lease other than as permitted by applicable law;
- j) Fails to abide by any expert determination, arbitration award or judgment arising from the dispute resolution provisions set forth in the licence or the PIA



## **5.0. Abandonment and Decommissioning**

Decommissioning and abandonment of onshore and offshore petroleum wells, installations, structures, utilities, plants and pipelines for petroleum operations under the PIA shall be conducted in accordance with good international petroleum industry practice; and guidelines issued by the Commission or Authority. Each lessee and licensee is expected to set up and manage a decommissioning and abandonment fund in the form of an escrow account accessible by the Commission or the Authority.

The governance framework and the administrative framework of the PIA will be discussed in more detail by oil and gas experts at an upcoming webinar series organized by our Firm in conjunction with Ascension Consulting Services

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