

The Petroleum Industry Bill (PIB): Top 20 Changes You Should Know!



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The PIB seeks to provide legal, governance, regulatory and fiscal framework for the Nigerian Petroleum Industry and development of Host Communities. It contains 5 Chapters, 319 Sections and, 8 Schedules dealing with Rights of Preemption; Incorporated Joint Ventures; Domestic Base Price and Pricing Framework; Pricing Formula for Gas Price for the Gas Based Industries; Capital Allowances; Production Allowances and Cost Price Ratio Limit; Petroleum Fees, Rents and Royalty; and Creation of the Ministry of Petroleum Incorporated.

Below are the key changes:

Chapter

01

Governance and Institutions

1. The key objective is ensuring good governance and accountability, creation of a commercially oriented national petroleum company, and fostering a conducive business environment for petroleum operations.
2. Creation of the Nigerian Upstream Regulatory Commission responsible for the technical and commercial regulation of the upstream petroleum operations; and the Nigerian Midstream and Downstream Petroleum Regulatory Authority responsible for the technical and commercial regulation of the midstream and downstream operations in Nigeria. The Commission and Authority are exempted from the provisions of any enactment relating to the taxation of companies or Trust Funds
3. Imposition of up to 1% levy on the wholesale price of petroleum products sold in the country (0.5% each for the Authority Fund and Midstream Gas Infrastructure Fund)
4. Incorporation of a commercial and profit focused NNPC Limited under CAMA within 6 months from commencement of the new law with ownership vested in the Ministry of Finance Incorporated (and Ministry of Petroleum Incorporated) on behalf of the Federation to take over assets, interests and liabilities of NNPC. This structure is expected to pave the way for eventually sale of shares to Nigerians.
5. Any assets, interest and liabilities not transferred to NNPC Limited will remain with NNPC until extinguished or transferred to the government after which NNPC shall cease to exist. Transfer and sale of the shares are subject to approval by the government and endorsement by the National Economic Council.
6. NNPC Limited will earn 10% of proceeds of the sale of profit oil and profit gas as management fee while 30% will be remitted to Frontier Exploration Fund for the development of frontier acreages in addition to 10% of rents on petroleum prospecting licences and mining leases.

Chapter

02

Administration

7. The main objective is to promote the exploration and exploitation of petroleum resources in Nigeria for the benefit of the Nigerian people and promote sustainable development of the industry, ensure safe, efficient transportation and distribution infrastructure, and transparency and accountability in the administration of petroleum resources in Nigeria.
8. Avoid economic distortions and ensure a competitive market for the sale and distribution of petroleum products and natural gas in Nigeria; and avoid cross-subsidies among different categories of consumers.
9. The Commission is required to develop a model licence and model lease to include a carried interest provision giving NNPC Limited the right to participate up to 60% in a contract.

Chapter

03

Host communities development

10. The main objective is to foster sustainable prosperity within host communities, provide direct social and economic benefits and enhance harmonious co-existence.
11. Any company granted an oil prospecting licence or mining lease or an operating company on behalf of joint venture partners (settlor) is required to contribute 3% - 5% (upstream Companies) and 2% (other companies) of its actual operating expenditure in the immediately preceding calendar year to the host communities development trust fund. This is in addition to the existing contribution of 3% to the NDDC. The Fund is tax exempt and any contributions by a settlor is tax deductible.
12. Board of trustees and executive members of the management committee may include persons of high integrity and professional standing who may not necessarily come from any of the host communities.
13. Available funds are to be allocated 75% for capital projects, 20% as reserve and 5% for administrative expenses. However, a community will forfeit the cost of repairs in the event of vandalism, sabotage and other civil unrest causing damage to petroleum facilities or disruption of production activities.

Fiscal framework

14. The key objective is to establish a progressive fiscal framework that encourages investment in the Nigerian petroleum industry, provides clarity, enhances revenues for the government while ensuring a fair return for investors.
15. FIRS to collect Hydrocarbon Tax of 15% - 30% on profits from crude oil production, CIT at 30% and Education Tax at 2% which will no longer be tax deductible. The Commission will collect rents, royalties, and production shares as applicable while the Authority will collect gas flare penalty from midstream operations. Late filing of tax returns will attract N10m on the first day and N2m for each subsequent day the failure continues. A N20m fine is applicable to an offense where no penalty is prescribed.
16. Generally, expenses must be wholly, reasonably, exclusively and necessarily incurred to be tax deductible. However, a cost price ratio limit of 65% of gross revenue is imposed for hydrocarbon tax deduction purposes, any excess cost incurred may be carried forward.
17. No tax deduction for head office costs while tax deduction of interest on monies borrowed is subject to the satisfaction of the commission that the fund was employed for upstream operations and the interest rates reflect market conditions.
18. Royalties are payable at the rates of 15% for onshore areas, 12.5% for shallow water, and 7.5% for deep offshore and frontier basins, 2.5% - 5% for natural gas. In addition, a price-based royalty ranging from 0% - 10% is payable to be credited to the Nigerian Sovereign Investment Authority.
19. Gas utilisation incentive will apply to midstream petroleum operations and large-scale gas utilisation industries. An additional 5-years tax holiday will be granted to investors in gas pipelines.

Miscellaneous provisions

20. The PIB repeals about 10 laws including the Associated Gas Reinjection Act; Hydrocarbon Oil Refineries Act; Motor Spirit Act; NNPC (Projects) Act; NNPC Act (when NNPC ceases to exist); PPPRA Act; Petroleum Equalisation Fund Act; PPTA; and Deep Offshore and Inland Basin PSC Act. It amends the Pre-Shipment Inspection of Oil Exports Act while the provisions of certain laws are saved until termination or expiration of the relevant oil prospecting licenses and mining leases including the Petroleum Act, PPTA, Oil Pipelines Act, Deep Offshore and Inland Basin PSC Act.

For more insights, please contact :



Taiwo Oyedele

Africa Tax Leader
taiwo.oyedele@pwc.com



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