

# Nigeria introduces amendments to increase royalties on Deep Offshore and Inland Basin operations

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## In summary

Nigeria's President recently assented to the Deep Offshore and Inland Basin Production Sharing Contract (Amendment) Bill 2019. In summary, the amendment introduces provisions for price-reflective royalties, 8 year periodic review of the Production Sharing Contracts ("PSCs") and penalties for non-compliance with the Act.

## Background

The original Act enacted in 1993 (old Act) was introduced to grant certain incentives to companies operating in the deep offshore and inland basin area. These incentives ranged from reduced royalty rates to lower tax rates to encourage investments in these areas.

The amendments to the Act are aimed at increasing Nigeria's earnings from the oil and gas industry to shore up the Federal Government's revenue.

## Summary of the Amendments

- **Revision of Royalty Rates:** The new Act substitutes Section 5 of the old Act with a new section revising how Royalties are calculated.

Under the old Act, Royalties were calculated based on the water depth of the field. This ranged from 0% to 12%.

The amendment has eliminated the 0% rate. Royalties would now be calculated on a field basis, dependent on the chargeable volume of the crude and condensates produced per field. The new rates are 10% (for fields in the deep offshore - greater than 200m water depth) while that of the frontier or inland basin is 7.5% as opposed to 10% under the old Act.

- **Additional Royalty based on Price:** The amendment also imposes an additional royalty rate to account for increase in price of crude in excess of \$20 per barrel.

Price per barrel	Rate
\$0 to \$20	0%
>\$20 to \$60	2.5%
>\$60 to \$100	4%
>\$100 to \$150	8%
Above \$150	10%

- **Deletion of section 16:** Section 16 of the old Act required a review of the Act after 15 years of commencement of the Act and every 5 years thereafter but this never happened. This provision has now been deleted.
- **Review of Contracts:** The Act includes a new section 17 which prescribes that all PSCs shall be reviewed every 8 years. There was a similar provision under Section 16 of the old Act for the review of the PSCs. The old provision triggered a review if the price of crude oil at any time exceeded \$20 per barrel in real terms. In such a case, government take would be adjusted in the PSCs to be more economically beneficial to the government.
- **Offences and Penalties:** The Act also introduces a new section 18 which stipulates that any person who does not comply with any provision in the Act commits an offence and will be liable on conviction to a fine not less than NGN500m and/or at least 5-year imprisonment.

## Takeaway

The effective date would be from the date of the gazette. The intention of the amendment is to apply the price-based royalty rates in addition to the field-based royalties.

These changes, while increasing the revenue accruable to government will have the effect of reducing the profitability of the affected petroleum investments. In addition, new investments will be less attractive but may still be viable.

Companies should assess the commercial impact that the changes would have on their existing and future investments, and cash flows, taking into consideration:

- the effective royalty rates;
- likely future changes during the review periods;
- the flexibility of the government to renegotiate the PSCs; and
- other tax changes proposed in the 2019 Finance Bill.

The lack of certainty around the fiscal outcomes of impending PSC reviews may constitute a disincentive for future investments in these assets especially where other investment destinations provide more attractive risk & returns.

For a deeper discussion, please contact any member of our team below or your usual contact with PwC Nigeria:

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