

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**UPSTREAM PETROLEUM
RESOURCES DEVELOPMENT
BILL**

[B 13—2021]

(Portfolio Committee on Mineral Resources and Energy)

[B 13A—2021]

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AGREED AMENDMENTS TO

UPSTREAM PETROLEUM RESOURCES DEVELOPMENT BILL [B 13—2021]

CLAUSE 1

1. On page 5, after line 10, to insert the following definition:

“**acreage**” means any area of land or sea, including the sea bed, identified as a block by co-ordinates on a map prepared by the Petroleum Agency and situated wholly or partly in the Republic or its exclusive economic zone, and includes any part of such block;”
2. On page 5, from line 48, to omit the definition of “**block**”.
3. On page 7, in line 28, to omit “production” and substitute “extraction”.
4. On page 7, in line 29, after “appraisal” to omit “production” and substitute “extraction”.
5. On page 7, from line 49, to omit the definition of “sustainable development” and substitute the following definition:

“**sustainable development**” has the meaning assigned to it in section 1 of the National Environmental Management Act;”
6. On page 8, after line 3, to insert the following definition after the definition of “upstream petroleum infrastructure”:

“**upstream petroleum operations**” means the exploration and production of oil and gas, which includes conducting geological and geophysical surveys and development activities such as the drilling of onshore and offshore wells;”.

CLAUSE 6

1. On page 9, in line 28, to omit paragraph (a).
2. On page 9, in line 31, to omit “landowner” and to substitute “owner”.
3. On page 9, in line 32, after “notice” to insert “prior to commencement”.

CLAUSE 7

1. On page 9, after line 39, to add the following subsection:

“(3) The Petroleum Agency must, within 30 days from the date of granting of an application lodged in terms of section 15, 16 or 38 make known, in the prescribed manner, that an application for a reconnaissance permit or petroleum right has been granted in respect of the land, block or blocks in question.”

CLAUSE 11

1. On page 10, in line 47, to omit “application”.

CLAUSE 14

1. On page 11, in line 55, after “executed” to insert “as contemplated in section 42”.
2. On page 12, after line 3, to add the following subsection:

“(6) Where any court proceedings, affecting reconnaissance, exploration or petroleum operations, are instituted immediately before or during the period of validity of a reconnaissance permit or petroleum right, the running of the period of validity shall be suspended until the finalisation of those court proceedings.”

CLAUSE 17

1. On page 13, from line 4, to omit “date of acknowledgement of the application as contemplated in subsection (1)” and substitute “last day of the period within which applications may be lodged, as contemplated in section 15(1) or 16(3), as the case may be”.
2. On page 13, in line 19, to omit “and”.
3. On page 13, in line 21, to omit the full stop and to substitute “; and”.
4. On page 13, after line 21, to add the following paragraph:

“(d) the applicant has the ability to comply with relevant prescribed provisions relating to upstream petroleum health and safety.”

CLAUSE 18

1. On page 13, in line 23, after “18.” to insert “(1)”.
2. On page 13, after line 25, to add the following subsection:

“(2) A person aggrieved by a decision of the Petroleum Agency contemplated in subsection (1) may appeal in accordance with section 99.”

CLAUSE 19

1. On page 13, in line 39, to omit “the granting of” and substitute “an application for”.
2. On page 13, after line 49 to add the following subsection:

“(5) If the applicant and the objecting person fail to reach an agreement, the objection must be referred to the Petroleum Development and Environmental Committee.”

CLAUSE 20

1. On page 13, in line 53, to omit “landowner” and to substitute “owner”.
2. On page 14, from line 6, to omit subsection (3) and (4), respectively, and to substitute the following subsections:

“(3) The applicant must notify the Petroleum Agency, and provide the Petroleum Agency proof in the prescribed manner of steps taken to trace the owner, lawful occupier or successor in title, if the owner or lawful occupier of the land concerned—

(a) cannot be readily traced; or

(b) is deceased and no successor in title can be readily traced,

(4) The applicant must also publish a notice in a local and national newspaper to trace the owner, lawful occupier or a successor in title.

(5) The notice referred to in subsection (4) must be published for a period of not less than 30 days.

(6) Notwithstanding any other law, the Petroleum Agency may, on application in writing from the applicant and on payment of the prescribed application fee, if at the lapsing period contemplated in subsection (5) the owner, lawful occupier or successor in title still cannot be traced—

(a) grant consent to the applicant to install a notice on a visible place on the land and enter the land to which the application relates; and

(b) subject the applicant to such other terms and conditions as the Petroleum Agency may determine.”

CLAUSE 23

1. On page 14, in line 24, after “Officer” to insert “of the Petroleum Agency”.

CLAUSE 26

1. On page 15, in line 19, to omit “may” and substitute “must”.

CLAUSE 31

1. On page 16, in line 24, after “five per cent” to insert “, subject to a right of first refusal by the State on terms agreed to with the relevant black person,”.

CLAUSE 32

1. On page 16, in line 52, after “grant” to omit “a”.

CLAUSE 38

1. On page 19, in line 29, to omit “landowner” and to substitute “owner”.

CLAUSE 43

1. On page 21, in line 22, to omit “landowner” and to substitute “owner”.

CLAUSE 44

1. On page 21, in line 45, to omit “and”.
2. On page 21, in line 47, to omit the full stop and to substitute “; and”.
3. On page 21, after line 47, to add the following paragraph:

“(h) the applicant has the ability to comply with relevant prescribed provisions relating to upstream petroleum health and safety.”

CLAUSE 49

1. On page 23, in line 32, to omit “(1)”.

CLAUSE 74

1. On page 32, in line 10, after “**for**” to insert “**renewal of**”.

CLAUSE 79

1. On page 33, in line 27, after “permit” to insert “, exploration right”.
2. On page 33, in line 39, to omit “14” and to substitute “40”.

CLAUSE 80

1. On page 33, from line 54, to omit subsection (3).

CLAUSE 83

1. On page 34, in line 31, after “relates to” to insert “reconnaissance,”.
2. On page 34, in line 32, to omit subsection 2, and to substitute the following subsections:

“(2) The National Environmental Management Act determines whether an environmental authorisation is required for reconnaissance, exploration and production activities.

“(3) Where an environmental authorisation is required in terms of the National Environmental Management Act for an application for a reconnaissance permit or petroleum right such environmental authorisation is a condition prior to the issuing of such reconnaissance permit or the granting of such petroleum right in terms of this Act.”

CLAUSE 84

1. On page 35, in line 38, to omit “(9)”, and to substitute “(11)”.
2. On page 35, in line 39, to omit “(10)”, and to substitute “(12)”.
3. On page 35, in line 45, to omit “section 50”, and to substitute “sections 50 and 79”.
4. On page 35, in line 47, to omit “93”, and to substitute “79”.

CLAUSE 89

1. On page 37, after line 13, to add the following subsection:

“(3) Where an application or authorisation is required in terms of any other legislation for related land or block use, such application must also be made, or such authorisation must also be requested in terms of that legislation.”

CLAUSE 91

1. On page 38, after line 17, to add the following subsection:

“(8) Where the owner or lawful occupier of land referred to in subsection (7) has suffered or is likely to suffer any loss or damage and such loss or damage may result in the relocation or resettlement of the owner or lawful occupier of land, such relocation or resettlement must be carried out in the prescribed manner.”

CLAUSE 102

1. On page 41, from line 8, to omit “the penalty that may be imposed for perjury” and substitute “a fine not exceeding 10 per cent of the person’s or right holder’s annual turnover in the Republic or its exports from the Republic during the person’s or right holder’s preceding financial year or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment”
2. On page 41, from line 21, to omit “a fine not exceeding R500 000” and substitute “a fine not exceeding 10 per cent of the person’s or right holder’s annual turnover in the Republic or its exports from the Republic during the person’s or right holder’s preceding financial year”

CLAUSE 103

1. On page 41, in line 30, to omit “provision” and substitute “order”.
2. On page 41, in line 30, after “section” to omit “101(a)(iv)” and substitute “96”.

CLAUSE 107

1. On page 43, after line 8, to insert the following paragraphs:

“(k) the consultation with owners or lawful occupiers of land and other interested and affected parties;
 (l) matters relating to upstream petroleum health and safety;
 (m) the manner in which relocation or resettlement of the owner or lawful occupier as contemplated in section 91 must be carried out;”

CLAUSE 110

1. Clause rejected.
2. That the following be the new clause:

“Transitional arrangements and amendment of laws

110. (1) The amendment of the law mentioned in Schedule 2 does not affect the transitional arrangements, which are set out in Schedule 1.

(2) The law mentioned in Schedule 2 is hereby amended to the extent indicated in the third column of that Schedule.”

SCHEDULE 1

1. On page 47, after line 39, to add the following item:

“Application of National Environmental Management Act to petroleum right

11. (1) Until such time that amendments are effected to the National Environmental Management Act, a specific environmental management Act, or the regulations issued under any such Act, to be in line with the provisions of this Act, the provisions of this item shall apply.

(2) For purposes of the application of the National Environmental Management Act, any specific environmental management Act or the regulations issued under any such Act, to a petroleum right as envisaged in this Act—

- (a) any reference in this Act to the exploration phase of the petroleum right must be construed as a reference to the exploration right, inclusive of all renewals thereof, as provided for in terms of the Mineral and Petroleum Resources Development Act, 2002, and inclusive of all terms of such exploration phase; and
- (b) any reference in this Act to the production phase of the petroleum right must be construed as a reference to the production right, and inclusive of all renewals thereof, as provided for in terms of the Mineral and Petroleum Resources Development Act, 2002, and inclusive of all terms of such production phase.

(3) For purposes of application of the National Environmental Management Act, any specific environmental management Act or the regulations issued under any such Act, applicable to a reconnaissance permit, exploration right or, production right or petroleum right granted in terms of the Mineral and Petroleum Resources Development Act, 2002, any reference to the Mineral and Petroleum Resources Development Act, 2002, in relation to a reconnaissance permit, exploration right, or production right or petroleum right must be construed as a reference to a reconnaissance permit or relevant phases of the petroleum right, as the case may be, in terms of this Act.”

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