

REPUBLIC OF NAMIBIA

NATIONAL ASSEMBLY

**PETROLEUM (EXPLORATION AND
PRODUCTION) AMENDMENT
BILL**

(As passed by the National Assembly)

(Introduced by the Minister of Industries, Mines and Energy)

BILL

To: amend the Petroleum (Exploration and Production) Act, 1991, so as to delete, amend and define certain expressions; provide for the transfer of certain powers from the Minister of Industries, Mines and Energy to the President; provide for the transfer of certain powers from the Minister of Industries, Mines and Energy to the Director-General: Upstream Petroleum Unit in the Office of the President; provide for the transfer powers from the Commissioner for Petroleum Affairs to the Deputy Director-General: Upstream Petroleum Unit; provide for the establishment, objects and functions of the Upstream Petroleum Unit in the Office of the President; provide for the powers, duties and functions of the Director-General and the Deputy Director-General; define or further define certain expressions; and provide for matters incidental.

(Introduced by the Minister of Industries, Mines and Energy)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

General Amendment of the Act No. 2 of 1991

1. The Petroleum (Exploration and Production) Act, 1991 (in this Act referred to as the principal Act) is amended by –

- (a) substitution for the expression “Minister” of the expression “President” wherever it appears in sections 63(1), 64, 65, 76A and 77 of the principal Act;
- (b) substitution for the expression “Minister” of the expression “Director-General” in section 1(2), section 3(1), section 4(3)(a), section 4(4), section 8(1)(a), section 8(4), section 9(1)(b), section 11(1), section 11(2), section 12(1), section 12(2), section 12(3), section 12(4), section 12(5), section 13(1), section 13(3), section 14(1)(e), section 14(2), section 15(1)(f), section 16(1)(c), section 16(1)(d), section 16(1)(e), section 16(3)(a), section 17(1), section 17(2), section 19(1), section 19(2)(a), section 19(2)(b), section 19(3), section 20(2), section 20(3)(a), section 20(3)(b), section 21(1), section 23(1), section 25(a), section 26(1), section 27, section 28(2), section 30(1), section 30(2)(b), section 20(2A), section 31, section 32(2), section 33(1)(a), section 33(3)(a), section 33(3)(b), section 34(1), section 35, section 37(5), section 38(1)(d), section 38(2)(h), section 38(2)(i), section 38(2A), section 39(3), section 41(1), section 41(2), section 42(1), section 42(2), section 42(4), section 43(1), section 43(2), section 45(1)(b), section 46(2)(i)(viA), section 46(3), section 47(1), section 47(3), section 47(4), section 48(1)(a), section 49(2), section 49(3)(a), section 49(3)(b), section 50(1), section 51, section 52(1), section 55(3), section 66, section 68A(2), section 68A(3), section 68A(5)(a), section 68A(5)(b), section 68B(1), section 68B(3), section 68B(4)(a), section 68B(4)(b), section 68B(5)(a), section 68B(5)(d), section 68B(6)(c), section 68D(2), section 69(1), section 69(2), section 70(1), section 71(1), section 71(2), section 72(1), section 73(a) and section 78(3)(a) except in sections 63, 64, 65, 76A and 77 of the principal Act;

- (c) substitution for the expression “Commissioner” of the expression “Deputy Director-General” in the section 1(3) section, section 1(4), section 4(1), section 4(2), section 4(3)(a), section 4(4), section 4(5), section 8(1)(d), section 11(1), section 15(1), section 16(1)(a), section 18(1), section 18(2), section 21(1)(m), section 21(1)(n), section 26(1), section 28(1), section 34(1), section 37(1), section 38(2)(d), section 38(2)(g), section 39(1), section 39(2)(b), section 40(1), section 44(2), section 50(1), section 53(2), section 70(1), section 72(1), section 73(a), section 75;
- (d) substitution for the word “officer” of the word “staff member” wherever it appears in the Act;
- (e) substitution for the –
 - (i) currency symbol “R” of the currency symbol “N\$”; and
 - (ii) currency “Rand” of the currency “Namibia Dollars”,
 wherever it appears in principal Act; and
- (f) substitution, under section 38(2A) and section 76A, respectively, of the following expressions:
 - (i) “Minister of Fisheries and Marine Resources” with “Minister responsible for marine resources”;
 - (ii) “Minister of Environment and Tourism” with “Minister responsible for environment”.

Amendment of Section 1 of Act 2 of 1991 as amended by section 1 of Act No. 11 of 1997

- 2. Section 1 of the principal Act is amended by the –
 - (a) substitution for the definition of “Chief Inspector” of the following definition:

““Chief Inspector” means the Chief Inspector of Petroleum Affairs appointed under section ~~3(1)(b)~~ 3(3);”;
 - (b) insertion of the following definition after the definition of “corporation”:

““Deputy Director-General” means the Deputy Director-General: Upstream Petroleum Unit appointed by the President in terms of section 3B;”;
 - (c) insertion of the following definition after the definition of “Deputy Director - General”:

““Director-General” means the Director-General: Upstream Petroleum Unit appointed by the President in terms of section 3B;”;

- (d) insertion of the following definition after the definition of “reconnaissance operations”
- ““staff member” means staff member as defined in section 1 of the Public Service Act, 1995 (Act No. 1 of 1995);”;
- (e) insertion of the following definition after the definition of “officer”:
- ““petroleum affairs” means all matters relating to the regulation, coordination, and development of upstream petroleum resources in Namibia, including but not limited to the regulation of petroleum exploration, appraisal, development, production, and decommissioning activities; the negotiation, issuance and management of petroleum agreements and licenses; the promotion of investment in the petroleum sector; and the oversight of compliance with applicable health, safety and environmental standards;”;
- (f) by inserting after the definition of “this Act” of the following definitions:
- ““Unit” means the Upstream Petroleum Unit established in terms of section 3A;
- ““upstream petroleum activities” means the exploration for, and production of, oil and gas from underground reservoirs and the decommissioning of petroleum fields;” and
- (g) deletion of the definitions of “Commissioner”, “officer” and “Minister”.

Substitution of section 3 of Act No. 2 of 1991

3. The principal Act is amended by the substitution for section 3 of the following section:

“Powers of President

3. (1) The President shall -
- (a) exercise the powers under sections 63(1), 64, 65, 76A and 77 of this Act;
- (b) provide policy direction on upstream petroleum activities in Namibia;
- (c) appoint the Director-General and the Deputy Director-General of the Upstream Petroleum Unit under section 3B of this Act.”.
- (2) The President -
- (a) may delegate the powers entrusted in the President under sections 63(1), 64, 65 to the Vice-President, the Prime Minister, a Minister or the Director-General; and
- (b) shall not delegate the powers provided under subsection (1)(b) and (c) and section 76A and 77.

(3) The President shall, subject to the laws governing the public service, appoint a person to be known Chief Inspector of Petroleum Affairs who shall respectively exercise or perform, subject to the direction and control of the Director-General, the powers, duties and functions conferred or imposed upon him or her by or under the provisions of this Act and such other functions as may be imposed upon them by the Director-General.

(4) The powers conferred and the duties and functions imposed upon the Chief Inspector by or under the provisions of this Act may be exercised or performed by the Chief Inspector, personally or, except in so far as the Chief Inspector, otherwise determines, by any staff member engaged in carrying out the said provisions under the direction and control of the Chief Inspector.

[Appointment of Commissioner for Petroleum Affairs and of Chief Inspector of Petroleum Affairs, and designation of other officers

3. (1) The Minister shall, subject to the laws governing the public service, appoint -

- (a) a person to be known as the Commissioner for Petroleum Affairs;**
- (b) a person to be known as the Chief Inspector of Petroleum Affairs,**

who shall respectively exercise or perform, subject to the direction and control of the Minister, the powers, duties and functions conferred or imposed upon any of them by or under the provisions of this Act and such other functions as may be imposed upon them by the Minister.

(2) The Commissioner and Chief Inspector shall be assisted by such other officers as may be designated by the Permanent Secretary: Mines and Energy for such purpose.

(3) The powers conferred and the duties and functions imposed upon the Commissioner or the Chief Inspector by or under the provisions of this Act may be exercised or performed by the Commissioner or Chief Inspector, as the case may be, personally or, except in so far as the Commissioner or Chief Inspector, as the case may be, otherwise determines, by any officer referred to in subsection (2) engaged in carrying out the said provisions under the direction and control of the Commissioner or Chief Inspector, as the case may be.]”.

Insertion of section 3A, 3B, 3C and 3D in Principal Act:

4. The principal Act is amended by the insertion after section 3 of the following sections:

“Establishment of Upstream Petroleum Unit

3A. (1) There is hereby established a Unit in the Office of the President to be known as the Upstream Petroleum Unit.

- (2) The Unit consists of –**

- (a) a Director-General;
- (b) a Deputy Director-General; and
- (c) staff members.
- (3) The objects of the Unit are to:
 - (a) regulate, manage, and coordinate petroleum affairs, including to grant and issue licences as provided for in this Act;
 - (b) advise the President on national petroleum activities;
 - (c) promote the execution of planned, sustainable, and cost-efficient petroleum activities;
 - (d) promote local content and participation in compliance with national laws;
 - (e) monitor compliance with laws, agreements, and standards, including -
 - (i) health, safety, and environmental standards;
 - (ii) standards on the optimum exploitation of resources and infrastructure;
 - (iii) compliance by operators, contractors and subcontractors;
 - (f) conduct inspections and audits;
 - (g) receive and manage upstream petroleum data and maintain a national repository;
 - (h) analyse and forecast economic data for the petroleum sector;
 - (i) issue an annual public report on upstream petroleum activities; and
 - (j) perform any other function as required by law or the President.

Appointment of Director-General and Deputy Director-General

3B. (1) The President shall, in terms of Article 32(3)(i)(hh) of the Namibian Constitution and on such terms and conditions as the President may determine, appoint persons with integrity, suitable qualifications and experience related to the functions of the Unit as -

- (a) Director-General of the Upstream Petroleum Unit; and
- (b) Deputy Director-General of the Upstream Petroleum Unit,

who shall exercise or perform subject to the direction and control of the President, the powers, duties and functions conferred or assigned to them by or under the provisions of this Act and such other functions as may be assigned by the President in order to achieve the objects of the Unit.

(2) As soon as practicable after their appointment, and thereafter at such times as the President may require, the Director-General and Deputy Director-General shall each furnish to the President a statement setting out particulars of their assets and liabilities, and the nature and extent of any interest which they may have in any business or occupation, company or close corporation, including any business, occupation, company or close corporation that engages in petroleum activities or in activities related to petroleum affairs.

(3) In terms of Article 32(6) of the Namibian Constitution, the President may remove from office the Director-General or Deputy Director-General.

Powers, duties and functions of Director-General and the Deputy Director-General

3C. (1) The Director-General is the head of the Unit and is responsible for the direction and control of the Unit, subject to the general supervision and control of the President.

(2) In addition to the powers, duties and functions conferred or assigned on the Director-General in terms of this Act, the Director-General shall -

- (a) ensure that all the functions of the Unit as provided for in this Act are performed in line with the objectives of the Unit;
- (b) initiate and implement the policies and programmes of the Unit and report on them to the President and ensure that the agreed objectives, targets and service standards of the Unit are met;
- (c) be responsible for the granting of licences provided for in this Act;
- (d) collaborate with other heads of Offices, Ministries, Agencies and other organisations involved in petroleum affairs;
- (e) perform any other duty necessary for the implementation of this Act as may be assigned to him or her by the President or under any other law.

(3) The Deputy Director-General performs the functions conferred by this Act on the Deputy Director-General or as may be assigned to him or her by the Director-General.

(4) In addition to the powers, duties and functions conferred or assigned on the Deputy Director-General in terms of this Act and subject to the general supervision and control of the President and the Director-General, the Deputy Director-General shall -

- (a) manage the staff of the Unit and is answerable to the President and the Director-General in the performance of his or her functions under this Act;
- (b) provide technical advice as required on all matters which fall within the area of the Unit's objectives and overall responsibility;
- (c) develop and oversee an operating plan to guide the Unit in performing its functions;
- (d) co-operate with lead agencies and organisations in matters related to the upstream petroleum sector;
- (e) issue licences granted by the Director General as contemplated under subsection (1)(d) in the manner directed by the Director-General;
- (f) be entitled to reasonably delegate a function to any staff member of the Unit but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

(5) The Director-General may, subject to such conditions as he or she may determine, delegate any power or assign any duty or function entrusted to him or her by or under this Act to the Deputy Director-General.

(6) The Deputy Director-General may, subject to such conditions as he or she may determine -

- (a) delegate any power or assign any duty or function entrusted to him or her by or under this Act to a staff member; and
- (b) with the prior written approval of the Director-General, delegate to a staff member any power or assign any duty or function delegated to the Deputy Director-General under subsection (3).

(7) A person to whom a delegation has been made under subsection (3) or (4) shall act under the control and direction of the person who made the delegation.

(8) The Director-General and Deputy Director-General shall not be relieved of the responsibility for the performance of any delegated power, duty or function.

(9) In addition to staff members, the Director-General and Deputy Director-General may be assisted by technical advisers as the Director-General may determine for the purpose of carrying out the functions of the Unit in terms of this Act or any other law.

Temporary filling of vacancy

3D. If the Director-General or Deputy Director-General is temporarily absent or unable for any reason to perform the functions of their offices, the President may, subject to section 3B, appoint any person to perform

the functions of the Director-General or Deputy Director-General during that temporary absence or inability.”

Amendment of section 5 of Act No. 2 of 1991

5. Section 5 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1) The [**Commissioner, the**] Chief Inspector and any other [**officer employed in the Ministry of Mines and Energy**] staff member, whether or not involved in carrying out the provisions of this Act shall preserve and aid in preserving secrecy in relation to all matters that may come to his or her knowledge in the exercise of his or her powers or the performance of his or her duties and functions in connection with those provisions, and shall not communicate any such matter to any other person or permit any person to have access to any documents in his or her possession or custody, except in so far as any such communication is required by or may be made in terms of this Act or any other law or by order of a competent court.”

Amendment of section 6 of Act No. 2 of 1991

6. The principal Act is amended by the substitution for section 6 of the following section:

“Prohibition of certain officers on holding certain interests in any licence or in company holding licence

(1) The [**Commissioner, the**] Chief Inspector and any other [**officer employed in the Ministry of Mines and Energy**] staff member, whether or not involved in carrying out the provisions of this Act, shall not -”

(2) For the purposes of paragraph (b) of subsection (1), the acquisition or holding of a share, as defined in section 1 of the Companies Act, 1973, in a company by the husband or wife of [**the Commissioner,**] the Chief Inspector or [**an officer**] staff member referred to in subsection (1), shall be deemed to be an acquisition or holding, as the case may be, by [**the Commissioner,**] the Chief Inspector or such [**officer**] staff member, as the case may be.

(3) Any document or transaction purporting to grant any right or interest referred to in paragraph (a) of subsection (1) upon, or any share certificate purporting to vest any shares referred to in paragraph (b) of subsection (1) in, [**the Commissioner,**] the Chief Inspector or any such [**officer**] staff member shall be null and void.

(4) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and on conviction liable to a fine not exceeding [R]N\$20 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(5) In any prosecution for a contravention of paragraph (b) of subsection (1), it shall be a sufficient defence if the accused person proves -

- (a) that the share in question was acquired by operation of law and that all reasonable steps necessary have been taken, and are being taken, to dispose of such share; or
- (b) that such share was acquired before he or she became [**the Commissioner,**] the Chief Inspector or [**an officer**] a staff member referred to in subsection (1) or before the company became the holder of a licence and that as from the date on which he or she became [**the Commissioner,**] the Chief Inspector or such [**officer**] staff member or as from the date on which such company became the holder of a licence, as the case may be, all reasonable steps necessary have been taken, and are being taken, to dispose of such share.”.

Amendment of section 7 of Act No. 2 of 1991

7. The principal Act is amended by the substitution for section 7 of the following section:

“Limitation of liability

7. No compensation shall be payable by the State or by the [**Commissioner,**] the Chief Inspector and any other staff member [**officer employed**] in carrying out the provisions of this Act in respect of any act done in good faith under this Act.”.

Amendment of section 55 of Act No. 2 of 1991

8. Section 55 of the principal Act is amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

- “(a) the administrative and clerical work involved in the performance of the Commission’s functions, shall be performed by [**officers in the public service**] staff members made available by a person delegated by the Prime Minister [**by the Permanent Secretary: Mines and Energy**] for that purpose under the Public Service Act.”.

Amendment of section 63 of Act No. 2 of 1991

9. Section 63 of the principal Act is amended by the –

- (a) substitution for the introductory sentence of subsection (1) of the following introductory sentence:

“(1) Notwithstanding the provisions of the State Finance Act, 1991(Act No. 31 of 1991)[**1982 (Act 1 of 1982)**], the [**Minister**] President may, [**in concurrence**] after consultation with the Minister of Finance, on application made to him or her by the holder of a production licence - ”;

- (b) substitution for subsection (2) of the following subsection:

“(2) The [**Minister**] President shall, in writing, designate the Prime Minister or any other Minister, who shall on or before 30 June in each year lay upon the table of the National Assembly a report consisting of the names of holders of licences in respect of whom royalty was remitted or refunded or of whom payment of royalty was deferred during the financial year which ended in that year and the amounts involved and the reasons for such remission, refund or deferment.”.

Amendment of section 76A of Act No. 2 of 1991

10. Section 76A of the principal Act is amended by the substitution for the introductory sentence of subsection (1) of the following introductory sentence:

“(1) The [**Minister**] President, [in consultation] after consultation with the Minister of Fisheries and Marine Resources and the Minister of Environment and Tourism, may make regulations relating to –”.

Insertion of section 78A in Act No. 2 of 1991

10. The principal Act is amended by the insertion after section 78 of the following section:

“Transitional provisions

78A. (1) Any approvals made and licences granted and issued under this Act before the commencement of the Petroleum (Exploration and Production) Amendment Act, 2025 shall remain valid as if made, granted or issued by the President, Director-General or Deputy Director-General under this Act.

(2) Any ongoing application, appeal or proceeding relating to a licence shall continue as if made to, or by, the Unit.”.

Short title and commencement

11. This Act is to be called the Petroleum (Exploration and Production) Amendment Act, 2025, and comes into operation on a date determined by the President by notice in the *Gazette*.
