

MPRDA update: Petroleum perspective

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Pursuant to the passing of the Minerals and Petroleum Resources and Development Amendment Bill by the National Assembly and its referral to the National Council of Provinces (NCOP), on Tuesday 8 November 2016, the department of mineral resources (DMR) presented its brief to the NCOP select committee on land and mineral resources on the amendments contained in the Bill as well as its additional proposals to the Bill.



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As it affects the upstream petroleum industry, the DMR stated that some of the additional proposals were the result of comprehensive engagement with the upstream petroleum industry to find a win-win solution for the sector, taking into account its frontier nature in the development of petroleum resources.

Below is a summary highlighting some of the key proposals presented by the DMR to the Committee:

- A proposed amendment of the definition of “effective date” so as to give effect to the Mawetse judgment.
- A technical amendment to s9 so as to clarify the dual application system whereby the minister is empowered to invite applications for a defined period through a *Gazette* on unknown areas and provision is made for an open application process on a “first come, first served” basis.
- A proposal that the amendments in the Bill relating to the replacement of the designated agency (Petroleum Agency of SA) with regional manager be omitted.

Section 86A of the Bill had been reworked pursuant to comprehensive engagement with the upstream petroleum sector to provide for:

- A 20% state carried interest with a cost recovery mechanism of the carried interest during the production stage.
- A downward adjustment at production stage in consultation with the minister of finance.
- A 10% BEE shareholding (up from 6% according to the DMR).
- Certainty of project terms by providing for the determination of terms for both exploration and production rights for the

duration of the right.

- Renegotiation of terms when renewing a production right.
- Relinquishment of contiguous portions of exploration areas at the renewal stage.

Ministerial powers to develop a petroleum charter which would make provision for transformation in the oil and gas sector.

In line with a recommendation made in the portfolio committee on mineral resources report to the National Assembly, that the initial public consultation process was too short, the committee will be starting the consultation process anew. Provincial briefings will take place prior to the public hearings. The Western Cape, KwaZulu-Natal, North West and Mpumalanga have had provincial briefings; and the Eastern Cape is scheduled to have one on 9 December 2016. The Free State, Limpopo, Northern Cape and Gauteng will have the provincial briefings in 2017. All nine provincial legislatures will then schedule public hearings in the new year.

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