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Peter Olaoye Olalere

BEHOLD THE BRAND NEW NIGERIAN PETROLEUM INDUSTRY ACT, 2021.¹

Introduction

After several years of missteps, intrigues, legislative summersaults, and restarts, the President, General Muhamadu Buhari finally signed the Petroleum Industry Bill ('PIB') into the Petroleum Industry Act ('PIA') on 16th August 2021. We now have an Act providing for legal, governance, regulatory and fiscal framework for the Nigerian Petroleum Industry, the Host Communities; and for related matters. To state that this very important Act has been long in coming is to oversimplify the obvious. From the time the legislation was conceived some 20 odd years ago, through the different transmutations it underwent, and particularly following its recent passage into law and awaiting presidential assent about four weeks ago, there has been rave reviews and conversations by stakeholders around the contents of what has now finally become the PIA. Of course, the most focal of the contentions attracting reviews is the 3% settlor's annual operating expenditure to be dedicated to the host community trust funds (section 240 [2]) vis-a-vis the 30% fund for the frontier basin exploration development. This short note is meant to give an overview of the gamut of the PIA and to serve as first of the series of reviews of specific segments of the law that will follow.

General Overview of the PIA

The Act contains a total of 319 sections, 5 chapters with a categorization into numbered Parts. Chapter I provides for the Governance and Institutions. Part I of chapter I containing sections 1 and 2 and provides for the Vesting and Objectives; Part II (section 3) provides for Powers of the Minister while Part III which covers sections 4-28 provides for the Nigerian Upstream Regulatory Commission. Part IV which covers sections 29-52 makes provisions for the Midstream and

¹ Notary Public for Nigeria, Associate Partner and Head of Energy Practice at S. P. A. Ajibade & Co., Lagos Office, Nigeria.

Downstream Petroleum Authority. Part V is the last Part of the Chapterisation and is dedicated to the Nigerian National Petroleum Company Limited and has a total of 13 sections (i.e., sections 53-65).

Chapter II of the PIA is dedicated to Petroleum Administration generally. Part I thereof from sections 66 and 67 contains General Administration – objectives and management of the petroleum resources. Part II straddles sections 68 to 110 and makes significant provisions for Administration of Upstream Petroleum Operations and Environment. Part III begins with section 111 and ends with section 124 - focusing on the General Administration of Midstream and Downstream Petroleum Operations. Part IV is dedicated to the Administration of the Midstream and Downstream Gas Operations from sections 125-173. Part V is for Administration of Midstream and Downstream Petroleum Liquid Operations and addressed in sections 174 - 208. Other matters related to the Midstream and Downstream Operations are captured in Part VI from sections 209 to 215 while Part VII provides for the Common Provisions for Upstream, Midstream and Downstream Petroleum Operations in sections 216-233.

Chapter III of the Act is the chapter for the Host Community. Packed in sections 234 to 257, it includes the objectives contemplated in introducing this segment of the Act, methods, and procedures necessary for the implementation of the aims of the drafters of the Act and how to bring the benefits envisaged to the traumatized communities hosting the petroleum assets and operations. Creation of trust funds, sources of funding and such other important provisions necessary are also contained in this part.

Petroleum Industry Fiscal Framework occupies Chapter IV of the PIA. This chapter contains a total of Eleven Parts. Part I provides for the objectives and Administration aspects in sections 258 and 259 while sections 260 to 266 are dedicated to Hydrocarbon Tax. Part III is for the Ascertainment of Chargeable Tax (sections 267 and 268); sections 269 to 272 is Part IV for the Ascertainment of Chargeable Profits and Consolidation for Tax Purposes. Part V has Chargeable Persons in sections 273-276, while sections 277 to 287 are for Part V and it is titled 'Applicability, Accounts and Particulars'. Part VII containing sections 288 and 289 is for Appeals in respect of the Taxes. Part VIII is titled 'Collections, Recovery and Repayment of Tax' and covers sections 290 – 296. For Offences and Penalties, Part IX covers sections 297 – 301 while the lone section 302 is the Part X and provides for Application of Companies Income to Petroleum Operations. Chapter IV concludes with Part XI which is General Provisions tucked into sections 303-306.

Chapter IV is dedicated to the Miscellaneous Provisions which is in sections 307 to 319.

For further information on this article and area of law, please contact **Peter Olaoye Olalere** at: S. P. A. Ajibade & Co., Lagos by telephone (+234 1 472 9890), fax (+234 1 4605092) mobile (+234 815 979 4216) or email (oolalere@spaajibade.com).