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PETROLEUM ACT
OIL BLOCK ALLOCATIONS TO COMPANIES (BACK-IN-RIGHTS)
REGULATIONS, 2019



ARRANGEMENT OF REGULATIONS

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S. I. No. 7 of 2019

PETROLEUM ACT

OIL BLOCK ALLOCATIONS TO COMPANIES (BACK-IN-RIGHTS) REGULATIONS, 2019

[26th Day of February, 2019]

Commence-
ment.

In exercise of the powers conferred on me by section 9(1) (a) and (h) and Paragraph 35(a) of the First Schedule to the Petroleum Act CAP. P10 Laws of the Federation of Nigeria, 2004 and all other powers enabling me in that behalf, I, Muhammadu Buhari, President of the Federal Republic of Nigeria and Minister of Petroleum Resources, make the following Regulations—

1.—(1) The Objective of these Regulations is to provide a legal framework for the participation of the Federal Government in oil blocks.

Objective
and
application.

(2) These Regulations shall apply to all oil prospecting licences and oil mining leases as may be granted from time to time in respect of an application for an award, conversion or renewal of an oil prospecting license or oil mining lease.

2. The Federal Government—

Participation
of the
Federal
Government
in oil blocks.

(a) shall exercise its right to participate in any venture to which an oil prospecting license or oil mining lease relates by acquiring up to five-sixths of the interest of the applicant (rounded up to the nearest whole percentage point of total interest in such license or lease) in the relevant oil prospecting license or oil mining lease ; and

(b) may exercise its right to participate at the commencement of a license, or upon conversion of the license to a lease or at the renewal of a license or a lease.

3.—(1) Prior to the acquisition referred to in regulation 2 of these Regulations, the Minister shall invite the applicant for the award, conversion or renewal of a license or a lease for negotiations in respect of the terms for the acquisition of the participating interest by the Federal Government in the license or lease, provided that the applicant for the license or lease shall be given at least 14 days' notice of the date, time and venue of such negotiations with the Minister.

Negotiation
between the
Minister and
Applicant

(2) The negotiations between the Minister and the applicant shall be conducted in the following manner—

(a) all unrecovered Proven Costs in respect of the participating interest acquired by the Federal Government which was incurred pursuant to petroleum operations conducted within the license or lease by the applicant in the development of the license or lease area shall be paid to the applicant

out of future production from the revenues accruing to the Federal Government in respect of its participating interest in the lease, provided that unrecovered Proven Costs shall be repaid with no interest ;

(b) where the Minister and the applicant are unable to reach an agreement as to what amounts to Proven Costs or what amount of such Proven Costs have been recovered, the matter shall be settled through Expert determination by an expert to be appointed by either the President of the Nigerian Association of Petroleum Explorationists (NAPE) or the Chairman of the Society of Petroleum Engineers (SPE-Nigeria Council) ;

(c) the application for the appointment of the Expert shall be made in writing either by the Minister or the Applicant ;

(d) the Expert shall give a written decision within 3 months from the commencement date of the Expert determination and state reasons for his decision ;

(e) the decision of the Expert shall be final and binding on all parties and the cost of the Expert determination shall be borne by both parties in proportion to their respective participating interests ;

(f) where the negotiations between the Minister and the applicant results in an agreement, the Minister shall give notice of the acquisition of the participating interest which shall have full force and effect upon receipt of such notice by the Applicant of such license or lease ; and

(g) where the negotiations between the Minister and the Applicant does not result in an agreement, the Minister may, if he considers it to be in the public interest nonetheless give notice of the acquisition of participating interest, which shall have full force and effect upon receipt by the applicant, without prejudice to the right of such applicant to resort to arbitration.

Revocation.

4.—(1) The Deep Water Block Allocation to Companies (Back-in-Rights) Regulations, 2003 is revoked.

(2) Where there is conflict or inconsistency between the provisions of these Regulations and any other Regulations in relation to the participation by the Federal Government in oil blocks, the provisions of these Regulations shall prevail.

Savings provisions.

5. Without prejudice to any back-in exercise concluded by the Federal Government prior to the commencement date of these Regulations, the provisions of these Regulations shall apply to all licenses or leases awarded, converted or renewed as from the commencement of these Regulations.

Interpretation.

6. In these Regulations—

“Act” means the Petroleum Act CAP. P10 Laws of the Federation of Nigeria, 2004 ;

“*Applicant*” means a company that has applied for an award of an Oil Prospecting License or Lease, Conversion of an OPL to OML or renewal of an OPL or OML ;

“*Federal Government*” means the Federal Government of Nigeria ;

“*Minister*” means the Minister of Petroleum Resources ; and

“*Proven costs*” means expenditure made and obligations incurred exclusively, wholly and necessarily for the purpose of carrying out petroleum operations in respect of the said license or lease.

7. These Regulations may be cited as the Oil Block Allocations to Companies (Back-in-Rights) Regulations, 2019. Citation.

MADE at Abuja this 26th Day of February, 2019.

MUHAMMADU BUHARI
*President of the Federal Republic of Nigeria
and Minister of Petroleum Resources*

EXPLANATORY NOTE

*(This note does not form part of these Regulations
but intends to explain its purport)*

These Regulations provide a legal framework for the participation by the Federal Government in oil blocks.