



TOPE ADEBAYO LP

OIL LICENSING REGIME UNDER THE PETROLEUM INDUSTRY ACT 2021:



PETROLEUM EXPLORATION
LICENCE (PART 1)

OIL LICENSING REGIME UNDER THE PETROLEUM INDUSTRY ACT 2021: PETROLEUM EXPLORATION LICENCE (PART 1)



INTRODUCTION

Prior to the Effective Date of the Petroleum Industry Act, 2021 (“PIA”), oil exploration and exploitation activities in Nigeria was governed mainly by the Petroleum Act, 1969 (“PA”) which was the principal legislation governing the oil and gas sector. Exploration and production companies had to obtain the requisite licence from the Minister of Petroleum Resources (Minister) before embarking on petroleum operations.¹ The licences the Minister could grant under the PA were the Oil Exploration License, Oil Prospecting License and Oil Mining Lease. This article seeks to examine the current licensing regime for exploration and production activities

THE NEW LICENSING REGIME

Following the enactment of the PIA, a plethora of changes were introduced to various aspects of the oil and gas industry including the licensing regime operative in Nigeria. The first noticeable change in the PIA in this regard is a change in nomenclature. The licence to carry out exploration activities, formerly known as the Oil Exploration License (OEL),² is now referred to as Petroleum Exploration License (PEL).³

Like the OEL,⁴ the PEL entitles the holder to carry out exploration activities within the area covered by the licence on a non-exclusive basis.⁵ Under the PA, the scope of area covered by an OEL did not include areas where an Oil Prospecting License (OPL) or an Oil Mining Lease (OML) was subsisting or approved for grant by the Minister.⁶ However, under the new regime,⁷ the area covered by a PEL may include an area under a



¹See section 2(1) and 13 of the Petroleum Act

²See section 2(1)(a) of the PA

³See section 70(1) of the PIA

⁴See Paragraph 2 of the First Schedule of the PA

⁵See section 71(2) of the PIA

⁶See Paragraph 1 of the First Schedule to the PA

⁷See section 71(4) of the PIA

OIL LICENSING REGIME UNDER THE PETROLEUM INDUSTRY ACT 2021: PETROLEUM EXPLORATION LICENCE (PART 1)



subsisting Petroleum Prospecting License (PPL) or Petroleum Mining Lease (PML).

Unlike the OEL which was granted and renewed by the Minister,⁸ the PEL is granted by the Nigerian Upstream Petroleum Regulatory Commission⁹ (the “NUPRC” or the “Commission”) which also has the power to renew same.¹⁰ The NUPRC is responsible for monitoring and administering, in accordance with regulations made pursuant to the PIA, exploration activities carried out under a PEL.¹¹ Additionally, the Commission has the power to impose special conditions consistent with the PIA either at the time of grant or renewal of a PEL.¹²

The OEL, regardless of the time it was granted, terminated on the 31st of December next following the date of grant. The licensee who satisfied the provision of the Petroleum Act had an option to renew the licence for a further year.¹³ The PEL on the other hand, has a definite term of 3 years which may be renewed for a further term of 3 years subject to the fulfilment of prescribed conditions.¹⁴ However, such renewal of the PEL will not include any right to win, extract, work, store, carry away, transport, export or otherwise treat petroleum discovered in or under the licence area.

It is important to note that under the PIA, the sole right and title to raw and interpreted data obtained from activities carried out pursuant to a PEL is vested in the Commission.¹⁵ Nevertheless, the licensee in this case is entitled to grant to a third party for a fee, the licence to use such data subject to a written authorisation by the Commission which is not to be unreasonably withheld. The licensee however has an obligation to remit an agreed portion of the fee to the Commission.¹⁶

Finally, under the new regime, a holder of a PEL cannot assign, novate or transfer his licence or any right, power or interest he has without first obtaining the written consent of the Minister¹⁷. There is

⁸See Paragraph 3(b) of the First Schedule of the PA

⁹See section 71(1) of the PIA

¹⁰See section 10(j) of the PIA

¹¹See section 71(8) of the PIA

¹²See section 10(i) of the PIA

¹³See Paragraph 3 of the First Schedule to the PA

¹⁴See section 71(3) of the PIA

¹⁵See section 71(6) of the PIA

¹⁶See section 71(7) of the PIA

¹⁷See section 95(11) of the PIA

OIL LICENSING REGIME UNDER THE PETROLEUM INDUSTRY ACT 2021: PETROLEUM EXPLORATION LICENCE (PART 1)



no similar provision under the PA.

CONCLUSION

In conclusion, we reiterate the most significant changes introduced by the PIA to oil exploration licensing which are (i) the NUPRC is now responsible for the grant of the licence as opposed to the Minister; (ii) the PEL can now be granted over areas where a subsisting PPL or PML exists; (iii) the requirement for Minister's consent to an assignment of interest in the licence; and (iv) the extended term of the license which is now for a renewable term of 3 years.

⁹Section 96(i) of the PIA

¹⁰Section 96(j) of the PIA

¹¹Section 96(k) of the PIA

¹²Section 96(l) of the PIA

¹³Section 96(m) of the PIA

¹⁴Section 96(n) of the PIA

¹⁵Section 96(a) of the PIA

PLEASE NOTE THAT THIS ARTICLE IS ONLY INFORMATIONAL AND DOES NOT CONSTITUTE LEGAL ADVICE

MEET OUR TEAM



Brought to you by TALP's Energy & Natural Resources Department.

For further enquiries, log onto www.topeadebayolp.com

Do you need to get in touch with us, to know how we can help you and your business?
Please contact us using any of the details provided below:

TOPE ADEBAYO LP

25C Ladoke Akintola Street, G.R.A. Ikeja Lagos, Nigeria

p: +234 (1) 628 4627

e: info@topeadebayolp.com

w: www.topeadebayolp.com

