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# OIL & GAS ALERT

## IN THIS ISSUE >

### Publication of draft Upstream Petroleum Resources Development Bill, 2019 for public comment

The latter part of 2019 brought with it a series of developments for the oil and gas sector including the withdrawal of the Mineral Petroleum Resources Development Act Amendment Bill. The most notable development, however, was undoubtedly the publication of the long-awaited Upstream Petroleum Resources Development Bill (Bill) for public comment on 24 December 2019. The Bill aims to *"make provision for equitable access to, and sustainable development of the nation's petroleum resources"*.

### An update on the moratorium on the granting of Reconnaissance Permits, Technical Co-operation Permits, Exploration Rights and Production Rights

On 28 June 2018, Samson Gwede Mantashe, Minister of Mineral Resources and Energy, having regard to the national interest and the need to promote the sustainable development of the nation's petroleum resources, imposed a moratorium, under section 49(1) of the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA) on the granting of applications for Technical Co-operation Permits, Exploration Rights and Production Rights through the publication of a notice in the Government Gazette (Notice).

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## Publication of draft Upstream Petroleum Resources Development Bill, 2019 for public comment

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The latter part of 2019 brought with it a series of developments for the oil and gas sector including the withdrawal of the Mineral Petroleum Resources Development Act Amendment Bill. The most notable development, however, was undoubtedly the publication of the long-awaited Upstream Petroleum Resources Development Bill (Bill) for public comment on 24 December 2019. The Bill aims to “*make provision for equitable access to, and sustainable development of the nation’s petroleum resources*”.

This Bill sees a separation of the regulatory frameworks governing mining and upstream petroleum exploration which were previously dealt with together under the Mineral Petroleum Resources Development Act (MPRDA). This separation will allow for upstream petroleum exploration to be regulated in an entirely separate bill.

Interested and affected parties who wish to submit their written representations on the Bill have until 21 February 2020 to do so, using the below details.

Attention: Sibongile Malie  
70 Meintjies Street  
Sunnyside  
0001

Private Bag  
Arcadia  
0007

Email:  
[representations@dmr.gov.za](mailto:representations@dmr.gov.za)

CDH’s Oil & Gas team will be publishing a series of articles during the course of this month analysing some of the key provisions of the Bill.

*Megan Rodgers and  
Sthembile Shamase*

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## An update on the moratorium on the granting of Reconnaissance Permits, Technical Co-operation Permits, Exploration Rights and Production Rights

Minister of Mineral Resources and Energy imposed a moratorium, under section 49(1) of the MPRDA on the granting of applications for Technical Co-operation Permits, Exploration Rights and Production Rights through the publication of a notice in the Government Gazette.

On 28 June 2018, Samson Gwede Mantashe, Minister of Mineral Resources and Energy, having regard to the national interest and the need to promote the sustainable development of the nation's petroleum resources, imposed a moratorium, under section 49(1) of the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA) on the granting of applications for Technical Co-operation Permits, Exploration Rights and Production Rights through the publication of a notice in the Government Gazette (Notice). The moratorium, however, did not affect the processing of applications for Reconnaissance Permits, Technical Co-operation Permits, Exploration Rights and Production Rights received prior to the date of publication of the Notice.

On 20 December 2019, just prior to the publishing of the Upstream Petroleum Resources Development Bill for public comment on 24 December 2019, the Minister, having reconsidered

the circumstances which caused the publication of the Notice, lifted the moratorium on the granting of applications for Technical Co-operation Permits, Exploration Rights and Production Rights in respect of certain onshore areas, in terms of section 49(3)(a) of the MPRDA.

Ultimately, the upliftment does not:

- (a) apply to offshore areas or areas subject to the Notice of Restriction No 71, dated 3 February 2014, which are predominantly in the Karoo area; and
- (b) affect exclusive rights conferred on holders of Technical Co-operation Permits and Exploration Rights to apply for Exploration Rights and Production Rights, as the case may be, in terms of sections 78(1) and 82(1)(a) of the MPRDA respectively.

Importantly, any application for an Exploration Right and/or a Production Right shall not authorise the holder of such right to undertake hydraulic fracturing until an appropriate regulatory/legislative framework has been promulgated.

*Megan Rodgers and Shameegh Allen*

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