

OIL & GAS ALERT

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Next steps for the Upstream Petroleum Resources Development Bill

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In our [previous alert on the UPRD Bill](#), we summarised the parliamentary process. Having been tagged as a section 76 bill, namely “*an ordinary bill affecting the provinces*”, the UPRD Bill was introduced to the National Assembly on 1 July 2021 and thereafter referred to the National House of Traditional and Khoi-San Leaders for comments on 18 August 2021, which had until 18 October 2021 to provide any feedback.

On Tuesday, 17 May 2022, the Department of Mineral Resources and Energy (DMRE) briefed the Portfolio Committee on the salient provisions of the UPRD Bill. During this briefing, the DMRE reiterated the importance of the UPRD Bill, its contribution to the development and growth of the upstream petroleum industry, and the need to promote investor certainty by passing the UPRD bill. These provisions include:

- The introduction of the petroleum right which will cover both an exploration phase and a production phase.

- Two types of licencing rounds which will be triggered by ministerial notices in the Government Gazette, namely (i) a notice defining the application criteria that includes a minimum work commitment and (ii) the open-door system where the criteria for award of the right is not predetermined.
- The provision for a 20% carried state interest in all petroleum rights remains. Holders will be entitled to recover a maximum of 50% and 100% of the state’s share of exploration and production rights, respectively.
- A requirement that all petroleum rights must have a minimum of 10% Black participation on commercial terms.

From the salient provisions presented to the Portfolio Committee, it is clear that no new amendments to the UPRD Bill have been made or are being proposed by the DMRE since the iteration introduced to the National Assembly on 1 July 2021.

In its concluding remarks, the DMRE stated that the passing of the UPRD Bill remains a critical step towards ensuring the energy security of the country. This echoes the recent address by President Cyril Ramaphosa at the 2022 Investing in African Mining Indaba that in order for South Africa to achieve energy security, foster social and economic development, eradicate energy poverty and enable its transition to a low- or zero-carbon future, exploration and development of its oil and gas resources must continue.

PUBLIC PARTICIPATION

The Portfolio Committee reconvened on 24 May 2022 to discuss next steps, in particular the public participation process for the UPRD Bill. Based on this discussion, it became clear that there will be two phases for public participation: written submissions and public hearings.

Next steps for the Upstream Petroleum Resources Development Bill

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Written submissions

Adverts will be placed in both national and regional newspapers calling for written submissions on the UPRD Bill. These adverts will be placed in 11 different newspapers and published in 11 different languages. Traditionally, interested and affected parties are afforded 60 days to submit written submissions, we anticipate that the same will apply to the UPRD Bill.

Public hearings

The parliamentary process affords the Portfolio Committee discretion in deciding whether or not the UPRD Bill should be subject to public hearings, and for this reason three public participation options were debated by the Portfolio Committee. These are:

- Virtual public hearings over a three- to five-day period. This would be a “closed door” process limited to stakeholders who submitted written comments to the UPRD Bill.

- Industry-specific public hearings whereby the Portfolio Committee would invite specific stakeholders, who may or may not have submitted written submissions, to public hearings. This would be by invitation only and at the discretion of the Portfolio Committee.
- Public hearings in all nine provinces where the Portfolio Committee would undertake public hearings on the UPRD Bill in an open forum.

Ultimately, the third option of open forum public hearings was selected. This decision was made with due regard to the importance of the UPRD Bill and on the basis that the people of South Africa should be part of the legislation process. No firm timelines have been decided for the two-phased public participation process set out above.

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