

# OIL AND GAS ALERT

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### MPRDA UPDATE: PETROLEUM PERSPECTIVE

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# MPRDA UPDATE: PETROLEUM PERSPECTIVE

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The Bill might now be considered a hop, skip and a jump away from being, finally, signed by the President, bringing to an end much uncertainty in the oil and gas sector. Traditionally, investors in non-producing frontier petroleum jurisdictions, such as a South African investor, proceed cautiously when faced with legislative uncertainty. Engaging in significant exploration spend when faced with such uncertainty, particularly prolonged uncertainty, may be difficult for investors to justify. In addition to this, the oil price crisis creates the perfect storm for curtailed spend and this in turn hampers much needed growth of the domestic sector.

There are a number of reasons for the Bill's delay, including certain reservations of the President; consultative issues, seemingly cleared up by the referral of the Bill to the National House of Traditional Leaders; and constitutional issues regarding the Codes of Good practice and the Housing and Living Condition Standards for the minerals industry, which have now been resolved by the portfolio committee on mineral resources. Concerns regarding the implementation of other petroleum-related issues, particularly the state's free carry and the dissolution of the petroleum agency have not been a focal point.

Though far from perfect, the Bill may attain something close enough given that the NCOP may yet summon stakeholders to report to it in regard to outstanding contentious issues by accepting petitions, representations or submissions as part of the meetings of its select committee on land and mineral resources. Those stakeholders may yet have an opportunity to get a second bite at the cherry and help deliver a less objectionable piece of legislation. Any petitions, representations, submissions, public consultations or hearings will undoubtedly be a much more curtailed process given that stakeholders have had an extended period to get their ducks in a row. Given context it will be comforting to have the Bill passed in the early part of next year so that we have a legislative framework to underpin the contractual terms which must ultimately be agreed between the investor and the Minister of Mineral Resources.

Meanwhile, the Minister of Energy's revelation at her Energy Department Budget Speech in May this year, that new legislation was in the offing is telling. Specifically the proposed Amendment of the National Energy Regulation Act; Gas Amendment Bill; Upstream Gas Bill; and Petroleum Agency of South Africa Establishment Bill, seems to indicate that parts of our current oil and gas

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legislation will be detached from the MPRDA and the much talked about separation of the petroleum sector from the mining industry may have already begun, if only in an understated, but different way than we might have expected.

This may be an indication that oil and gas exploration and production in South Africa will soon be regulated by more than just

the Minerals and Petroleum Resources Development Act. Navigating hybrid legislation is not unusual in the South African context nor is it by any means an insurmountable task.

*Craig Wilton and Megan Rodgers*



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