

Oil & Gas

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SOUTH AFRICA

- Key developments from the Draft Upstream Petroleum Resources Development Regulations

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Key developments from the Draft Upstream Petroleum Resources Development Regulations

On 25 October 2024, the President assented to the Upstream Petroleum Resources Development Act 23 of 2024 (UPRDA). Although the UPRDA is not yet in force and awaits commencement on a date to be proclaimed in the *Government Gazette*, recent regulatory developments suggest that implementation is advancing.

On 14 April 2025, the Department of Mineral and Petroleum Resources (DMPR) published the first draft of the regulations to the UPRDA for public comment in *Government Gazette* No. 6123 (2025 draft Regulations).

On 21 January 2026, following receipt of industry comments, the DMPR circulated an updated iteration of the regulations (2026 draft Regulations) for further industry comment. The revised draft reflects a degree of responsiveness to stakeholder submissions and introduces several provisions that materially affect the fiscal, operational and compliance framework applicable to upstream petroleum activities in South Africa.

Set out below are the principal features of the 2026 draft Regulations and their potential implications for industry participants.





Introduction of a cost recovery regime

The 2025 draft regulations did not contain any regulations dealing with the cost recovery rules in relation to the state's interest, which was to be prescribed in accordance with section 34(6) read with section 34(7) of the UPRDA. Section 34(2) of the act makes provision for the state's interest by stipulating that it is to have a right to a 20% carried interest in petroleum rights, including in both the exploration and production phases.

The 2026 draft Regulations introduce a cost recovery framework, providing that expenditure incurred during exploration, appraisal and production activities will be recoverable from the commencement of production. Annual gross revenue caps are proposed at:

- 60% for oil developments;
- 70% for gas developments; and
- 75% for frontier or deepwater areas.

The Petroleum Agency may approve alternative caps where warranted by the economics of a particular development. In addition, eligible costs must be approved by the Petroleum Agency, and reported expenditure may be audited by an independent specialist at the cost of the holder of a petroleum right.

The introduction of a defined cost recovery mechanism is a welcome addition to the 2026 draft Regulations and should assist in improving fiscal predictability for investors.

Clarified discovery and appraisal timelines

Under the 2025 draft Regulations, holders were required to notify the Petroleum Agency within five days of becoming aware that a discovery has been made. Following comments by industry, the 2026 draft Regulations have extended this timeframe by affording holders a period of 30 days to notify that a petroleum discovery has been made. This notification must include a preliminary wellsite analysis indicating that a discovery may have occurred and include planned tests to be undertaken to confirm the discovery. Following notification:

- a discovery report must be submitted within 100 days; and
- where the holder elects to proceed with appraisal, an appraisal work programme must be submitted within 180 days, unless extended by the Petroleum Agency.

This amendment reflects operational realities, particularly for offshore activities, allowing operators sufficient time to conduct preliminary technical assessments before triggering regulatory processes.

Expanded local content consultation requirements

The 2026 draft Regulations reinforce the role of local participation in petroleum developments. Before a local content plan is included in an application to progress to the production phase, holders must undertake a public participation process with affected communities and interested and affected parties, the purpose of which is to provide opportunity for these communities to benefit from such developments. For offshore projects, consultation must extend to coastal communities. Such consultation must commence within 180 days of acceptance of the local content plan.

Various elements, such as skills development, employment equity targets, procurement initiatives and local economic development measures, must be contained in the local content plan.

The introduction of prescribed local content requirements signals a continued emphasis on ensuring that petroleum developments deliver measurable domestic benefits.

Health and safety governance

The 2026 draft Regulations impose comprehensive health and safety duties on holders and operators, including the obligation to ensure that petroleum facilities are designed and operated to provide a safe working environment, and to compile annual health and safety reports.

In addition, a safety case identifying critical risks and mitigation measures must be developed before facilities are constructed, installed, operated or decommissioned.

These requirements align with international upstream practice and indicate an intention to embed a high standard of operational governance within the South African oil and gas regime.

Looking ahead

The 2026 draft Regulations represent a meaningful step toward operationalising the UPRDA and establishing a standalone regulatory regime for South Africa's upstream petroleum sector. The emerging framework suggests an effort to balance investor certainty with strengthened regulatory oversight and socio-economic participation.

As with any significant legislative reform, the practical impact of the 2026 draft Regulations will ultimately depend less on the precision of their drafting and more on the manner in which they are implemented and administered in practice. Consistent, transparent and commercially attuned regulatory application will be central to achieving the stated objective of fostering a stable and competitive upstream petroleum sector in South Africa.

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