

**IN THE THIRD SESSION OF THE EIGHTH PARLIAMENT OF
THE FOURTH REPUBLIC OF GHANA**

REPORT OF THE COMMITTEE ON MINES AND ENERGY

ON THE

**NATIONAL PETROLEUM AUTHORITY (AMENDMENT) BILL,
2023**

NOVEMBER 2023

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1.0 INTRODUCTION

The National Petroleum Authority (Amendment) Bill, 2023 was laid in Parliament by the Hon. Minister for Energy, Dr. Matthew Opoku-Prempeh on Tuesday, 2nd May, 2023 in accordance with Article 106 of the 1992 Constitution.

Consequently, the Rt. Hon. Speaker referred the Amendment Bill to the Select Committee on Mines and Energy for consideration and report pursuant to Order 188 of the Standing Orders of the House.

2.0 DELIBERATIONS

The Committee met with the Hon. Deputy Ministers for Energy, Mr. Andrew Kofi Egyapa Mercer and Mr. Herbert Krapa, and Officials of NPA led by its Chief Executive Officer, Dr. Mustapha Abdul-Hamid to discuss the Bill. In attendance was an official of the Office of the Attorney-General to assist in the deliberations.

The Committee expresses its profound gratitude to the Hon. Deputy Ministers, the Chief Executive Officer of NPA and the Officials for assisting in the deliberations.

3.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during the deliberations:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of Parliament, 2000;
- iii. The National Petroleum Authority Act, 2005 (Act 691);
- iv. Ghanaian Content and Ghanaian Participation Policy in the Downstream Petroleum Industry; and
- v. Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations.

4.0 BACKGROUND INFORMATION

- 4.1 The National Petroleum Authority Act, 2005 (Act 691) was enacted in 2005 to provide statutory backing to the policy of Government on the liberalisation of the downstream petroleum industry and to establish the National Petroleum Authority with a mandate to oversee and regulate the deregulated petroleum downstream industry in the country. The regulatory mandate of the Authority included the setting of the ceiling of prices and the promotion of private sector participation and investment in the industry.
- 4.2 Act 691 however does not make a specific provision for Ghanaian content and Ghanaian participation in the petroleum downstream industry. Given the wide range of activities that comprise the petroleum downstream industry, the industry provides numerous opportunities for local businesses and the employment of Ghanaians and as such requires a targeted Ghanaian Content and Ghanaian participation framework for the industry to empower and further enhance the involvement of Ghanaian companies in the petroleum downstream value chain.
- 4.3 Hence, this Bill seeks to amend Act 691 to provide the enabling environment and opportunities for Ghanaians through the enforcement of mandatory participation of Ghanaians in the ownership, operations, control and management of activities in the petroleum downstream industry.

5.0 PURPOSE OF THE BILL

The object of the Bill is to amend the National Petroleum Authority Act, 2005 (Act 691) to provide for the promotion, monitoring and enforcement of Ghanaian content and Ghanaian participation in the petroleum downstream industry.

5.0 SUMMARY OF PROVISIONS

- 5.1 The Bill contains five (5) clauses.
- 5.2 The first clause of the Bill seeks to amend section 2 of Act 691 to require the National Petroleum Authority to promote, monitor and enforce Ghanaian content and Ghanaian participation in the petroleum downstream industry. The new function of the Authority is in accordance with the Ghanaian Content and Ghanaian Participation Policy in the downstream petroleum industry.
- 5.3 Clause 2 of the Bill amends section 12 of Act 691 to clarify the requirements for qualification for a licence under Act 691. Under the clause, a licence may only be granted under Act 691 to a Ghanaian or a foreign company in a registered joint venture

relationship with an indigenous Ghanaian company in accordance with the Ghanaian content and Ghanaian participation requirements.

- 5.4 Clause 3 of the Bill amends section 80 of Act 691 to empower the Minister responsible for Energy to make Regulations to promote, monitor and enforce Ghanaian content and Ghanaian participation in the petroleum downstream industry.
- 5.5 Clause 4 amends section 81 of Act 691 to provide definitions for words and phrases used in the Bill.
- 5.6 The last clause saves licences issued before the coming into force of the Bill.

6.0 OBSERVATIONS

The Committee made the following observations during the deliberations:

6.1 Necessity for passage of the Bill

The Committee observed that the Bill is quite essential because it will provide the petroleum downstream industry with a framework for Ghanaian content and participation. This will empower and enhance the involvement of Ghanaian companies in the petroleum downstream value chain.

6.2 Local Content Policy for Ghana's Downstream Petroleum Industry

The Committee noted that the main purpose of the Bill is to implement Ghanaian Content and Ghanaian Participation Policy in the downstream petroleum industry. This policy requires NPA to promote, monitor and enforce Ghanaian content and Ghanaian participation in the petroleum downstream industry.

Officials of NPA informed the Committee that the Authority has already drafted the requisite subsidiary legislation to facilitate the implementation of the Bill when passed into law.

6.3 Definition of Ghanaian Content

Ghanaian content is defined in the Bill as the percentage of Ghanaians in a downstream petroleum business or the quantum of locally produced materials, financing, goods and services rendered in the petroleum downstream industry value chain which can be measured in monetary terms.

The Committee was not satisfied with this definition which exclusively subjects the assessment of Ghanaian to only one criterion, which is monetary value. An amendment has been proposed to expand the assessment criterion.

7.0 PROPOSED AMENDMENTS

The Committee has proposed the following amendments:

- i. **Clause 2** - **Amendment proposed** - paragraph (b) of the proposed section 12, lines 2 and 3, delete “an indigenous Ghanaian company” and insert “a Ghanaian”.
- ii. **Clause 4** - **Amendment proposed** - delete the definition of “Ghanaian content” and insert the following:

“Ghanaian content means the percentage of Ghanaians in a downstream petroleum business or the quantum of locally produced materials, financing goods and services rendered in the petroleum downstream industry value chain which may be measured in monetary terms and any other standard to be determined by the Authority.”

- iii. **Clause 4** - **Amendment proposed** - delete the definition of “indigenous Ghanaian company”.
- iv. **Clause 4** - **Amendment proposed** - insert the following definitions:

“Foreign company” means an incorporated entity in which the legal and beneficial ownership is controlled by a non-citizen, whether the entity is incorporated in Ghana or not.”

“Petroleum downstream industry” means the scope of businesses or commercial activities related to crude oil and petroleum product importation, exportation, re-exportation, shipment, storage, transportation, processing, refining, distribution, marketing and sale as prescribed in this Act for which a licence is required.”

8.0 CONCLUSION AND RECOMMENDATION


The Committee is optimistic that the passage of the Amendment Bill would provide the requisite legal backing to support the implementation of Ghana’s local content for the Petroleum Downstream Sector. It would also empower the Hon. Minister for Energy to make Regulations to give full effect to the substantive provisions of the Bill, upon enactment. This would contribute greatly to job creation, boost the domestic private sector, facilitate technology transfer and build a competitive local workforce.

In that regard, the Committee recommends to the House to adopt this Report and pass the National Petroleum Authority (Amendment) Bill, 2023 in accordance with Article 106 of the Constitution.

Respectfully submitted.



HON. SAMUEL ATTA AKYEA
CHAIRMAN, COMMITTEE ON MINES & ENERGY



MR. ANTHONY AGYEKUM
CLERK TO THE COMMITTEE

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