

**PETROLEUM REVENUE MANAGEMENT
(AMENDMENT) BILL, 2015**

ARRANGEMENT

Clause

1. Section 5 of Act 815 amended
2. Section 7 of Act 815 amended
3. Section 10 of Act 815 amended
4. Section 11 of Act 815 amended
5. Section 12 of Act 815 amended
6. Section 16 of Act 815 amended
7. Section 17 of Act 815 amended
8. Section 21 of Act 815 amended
9. Section 23 of Act 815 amended
10. Section 31 of Act 815 amended
11. Section 48 of Act 815 amended
12. Section 54 of Act 815 amended
13. Section 57 of Act 815 amended
14. Section 60 of Act 815 amended
15. Section 61 of Act 815 amended
16. First Schedule to Act 815 amended
17. Second Schedule to Act 815 repealed

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BILL

ENTITLED

**PETROLEUM REVENUE MANAGEMENT (AMENDMENT)
ACT, 2015**

An Act to amend the Petroleum Revenue Management Act, 2011 (Act 815) to provide for the allocation of funds to the Ghana Infrastructure Investment Fund for the purposes of infrastructure development, the provision of the composition of the Investment Advisory Committee and for related matters.

PASSED by Parliament and assented to by the President:

Section 5 of Act 815 amended

1. The Petroleum Revenue Management Act, 2011 (Act 815) referred to in this Act as the principal enactment is amended in section 5 by the substitution for subsection (2) of

“(2) In order to preserve revenue streams from petroleum and ensure the object of this Act, there shall not be any borrowing against the petroleum reserves.”.

Section 7 of Act 815 amended

2. The principal enactment is amended by the substitution for section 7 of

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“Carried and participating interest

7. Revenue due from the direct or indirect participation of the Republic in petroleum operations, including the carried and participating interest, shall be paid into the Petroleum Holding Fund.”.

Section 10 of Act 815 amended

3. The principal enactment is amended in section 10 by the substitution for subsection (2) of

“(2) The object of the Ghana Heritage Fund is to provide an endowment to support development for future generations when petroleum reserves have been depleted.”.

Section 11 of Act 815 amended

4. The principal enactment is amended in section 11 by

(a) the substitution for subsection (2) of

“(2) Subject to section 17 and the First Schedule, the Ghana Petroleum Funds shall receive from the Petroleum Holding Fund not less than thirty percent of the Benchmark Revenue.” and

(b) the insertion after subsection (2) of a new subsection (3)

“(3) Thirty percent of the amount transferred to the Ghana Petroleum Funds under subsection (2) shall be transferred to the Ghana Heritage Fund and the balance shall be transferred into the Ghana Stabilisation Fund.”.

Section 12 of Act 815 amended

5. The principal enactment is amended in section 12 by

(a) the substitution for subsection (5) of

“(5) A transfer from the Ghana Stabilisation Fund shall only be done for the purposes of

(a) alleviating shortfalls in actual petroleum revenue in accordance with subsection (1) to (4); and

(b) a transfer into the Contingency Fund and for debt repayment in accordance with sections 23(4) and 23(5).” and

(b) the insertion after subsection (5) of a new subsection (6)

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“(6) Despite subsection (1) to (5), a withdrawal from the Ghana Stabilisation Fund for the purpose of alleviating a shortfall in actual petroleum revenue shall not exceed seventy-five percent of the balance standing to the credit of the Ghana Stabilisation Fund at the beginning of the financial year.”.

Section 16 of Act 815 amended

6. The principal enactment is amended by the substitution for section 16 of

“Disbursement from the Petroleum Holding Fund

16. (1) Disbursements from the Petroleum Holding Fund shall be made in the following order of priority and only:

- (a) to a national oil company for the purposes of subsections (2)(a) and (2)(b);
- (b) to the Consolidated Fund in support of the national budget;
- (c) to the Ghana Petroleum Funds for purposes of savings and investments; and
- (d) for exceptional purposes according to the provisions of this Act.

(2) The payment to a national oil company shall be for the following:

- (a) the equity financing cost, including advances and interest of the carried and participating interests of the Republic; and
- (b) the cash or the barrels of oil equivalent of petroleum that shall be ceded to a national oil company out of the carried and participating interests of the Republic, on the recommendation of the Minister and approval by Parliament.

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(3) For a period not exceeding fifteen years after the commencement of this Act, the cash or barrels of oil equivalent of petroleum ceded to a national oil company shall

- (a) not exceed fifty-five percent of the net cash flow from the carried and participating interests of the Republic after deducting the equity financing cost under paragraph (a) of subsection (2); and
- (b) be reviewed every three years by Parliament but Parliament shall in each year approve the programme of activities of that national oil company which may include the gas payment or repayment obligations of the national oil company in respect of a loan that the national oil company may raise to finance the operations and activities of that national oil company.

(4) The Minister shall ensure that the Bank of Ghana transfers to a national oil company, the relevant portion of the petroleum revenue due to that national oil company under subsections (2)(a) and (2)(b) not later than three working days after the receipt of petroleum revenue into the Petroleum Holding Fund.”.

Section 17 of Act 815 amended

7. The principal enactment is amended in section 17 by the insertion of

“(2) The Minister may recommend to Parliament a revision of the Benchmark Revenue if it becomes evident that unexpected petroleum price movements or production conditions have resulted or are likely to result in a gross over projection or under projection of the Benchmark Revenue.

(3) The Minister shall make the recommendation under subsection (2) at the time of presenting the annual budget estimates or during the mid-year review.

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(4) A variation of the Benchmark Revenue shall not become effective until the variation is certified in accordance with this Act and approved by Parliament.”.

Section 21 of Act 815 amended

8. The principal enactment is amended in section 21 by the substitution for subsection (4) of

- “(4) For any financial year,
- (a) a minimum of seventy percent of the Annual Budget Funding Amount shall be used for public investment expenditure consistent with the long-term national development plan or with subsection (3) to (5),
 - (b) a maximum of twenty-five percent of the amount allocated for public investment expenditure under paragraph (a) shall be allocated to the Ghana Infrastructure Investment Fund for the purpose of infrastructure development; and
 - (c) the amount allocated to the Ghana Infrastructure Investment Fund under paragraph (b) shall be included in the national budget and approved by Parliament.”.

Section 23 of Act 815 amended

9. The principal enactment is amended in section 23 by the substitution for the headnote of “**Transfer of excess petroleum revenue into the Ghana Petroleum Funds**”.

Section 31 of Act 815 amended

10. The principal enactment is amended in section 31 by the substitution for subsection (1) of

- “(1) The Investment Advisory Committee comprises seven members, at least two of whom are women, who shall be persons of proven competence in finance, investment, economics, business management or law or similar disciplines.”.

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Section 48 of Act 815 amended

11. The principal enactment is amended in section 48 by the substitution for paragraph (b) of subsection (2) of

“(b) a report from the Minister

(i) describing the stage of implementation of the programmed activities funded by the expenditure incurred on the activities covered by the Annual Budget Funding Amount, and

(ii) indicating the portion of the Annual Budget Funding Amount allocated to the Ghana Infrastructure Investment Fund

in the financial year of the report;”.

Section 54 of Act 815 amended

12. Section 54 of the principal enactment is amended in subsection (1) by the substitution for “eleven members including” of “thirteen members comprising”.

Section 57 of Act 815 amended

13. The principal enactment is amended by the substitution for section 57 of

“Funding and allowances

57. (1) The Accountability Committee shall submit a budget on the annual programme of the Committee to the Minister for inclusion in the annual national budget.

(2) Members of the Accountability Committee shall be paid the allowances determined by the Minister.”.

Section 60 of Act 815 amended

14. The principal enactment is amended in section 60 by the substitution for subsection (1) of

“(1) The Minister may, by legislative instrument, make Regulations for the effective performance of this Act.”.

Section 61 of Act 815 amended

15. The principal enactment is amended in section 61 by

(a) the insertion after “confidential information” of

“ “corporate income tax” means corporate income tax as defined by the tax laws of the country;”;

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- (b) the insertion after “disaster” of
 - “ “equity financing cost” means the share of a national oil company of the costs under a petroleum agreement relating to the paid participation or paying interest of the national oil company in petroleum operations; and
 - “gas” means associated and non-associated natural gas and condensates of natural gas;”;
- (c) the insertion after “Ghana Heritage Fund” of
 - “ “Ghana Infrastructure Investment Fund” means the Ghana Infrastructure Investment Fund established under the Ghana Infrastructure Investment Fund Act, 2014 (Act 877);”;
- (d) the insertion after “investment manager” of
 - “ “management fees” means fees approved by the Minister for the operational management of the Ghana Petroleum Funds;”;
- (e) the substitution for the definition of “petroleum” of
 - “ “petroleum” means crude oil or natural gas, including condensates of crude oil or natural gas or a combination of both;”.

First Schedule to Act 815 amended

- 16. The principal enactment is amended in the First Schedule by
 - (a) the substitution for “prior to” in line five of paragraph (1), of
 - “preceding”;
 - (b) the substitution for paragraph (2) of
 - “(2) The expected quantity of petroleum shall be calculated on the basis of expected average government take in gross petroleum over a three year horizon, being the immediately preceding year, the current financial year and the one year forward projection following the current financial year.”;

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- (c) the substitution for paragraph (4) of
“(4) Expected revenue from gas shall be calculated on the basis of anticipated revenue from gas derived from a seven-year moving average, being the four years immediately preceding the current financial year, the current financial year and the two years immediately following the current financial year.”;
- (d) the substitution for paragraph (5) of
“(5) Benchmark Revenue is the sum of
 - (a) the expected revenue from crude oil defined in paragraph (3),
 - (b) the expected revenue from gas defined in paragraph (4),
 - (c) the expected dividends from a national oil company,
 - (d) corporate income tax and surface rental, and
 - (e) any other revenue identified under section 6.”;
- (e) the insertion after paragraph (5) of paragraph (5A)
“(5A) For each financial year,
Benchmark Revenue = Expected current receipts from crude oil + Expected current receipts from gas + Expected dividends from a national oil company + Corporate income tax + Surface rental + Any other revenue identified under section 6.”;
- (f) the substitution for paragraph (8) of
“(8) For the purpose of this section, “quarter” means a three-month period ending March 31, June 30, September 30 and December 31.”; and
- (g) the substitution for paragraph (11) of
“(11) The forecasts and the amounts determined in accordance with the formula in paragraphs (1), (2), (3), (4) and (5) shall be certified by a reputable independent expert appointed in accordance with the Public Procurement Act, 2003 (Act 663).”.

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Second Schedule to Act 815 amended

17. The principal enactment is amended in the Second Schedule by
- (a) the substitution for the title of the Second Schedule of “Operations Management Agreement Template”; and
 - (b) the repeal of paragraph (8).

Date of *Gazette* notification: 13th March, 2015.

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MEMORANDUM

The purpose of the Bill is to amend the Petroleum Revenue Management Act, 2011 (Act 815) to provide for the allocation of funds to the Ghana Infrastructure Investment Fund for the purposes of infrastructure development and to provide for the composition of the Investment Advisory Committee.

Act 815 was enacted to provide a framework for the collection, allocation and management of petroleum revenue in a responsible, transparent, accountable and sustainable manner for the benefit of the citizens of Ghana in accordance with the 1992 Constitution. However, the implementation of Act 815 exposed some inconsistencies and typographical errors that need to be rectified. This amendment therefore seeks to ensure that the implementation of Act 815 is in conformity with the intendment of the drafters. In view of this the substance of Act 815 has generally been maintained in the Bill.

Clause 1 of the Bill amends subsection (2) of section 5 of Act 815 to correct a typographical error. The substance of section 5 of Act 815 is the same.

Section 7 of Act 815 is amended by *clause 2* of the Bill to provide for the specific issue of carried and participating interest as provided for in subsection (1) of section 7 of Act 815.

Clause 3 of the Bill amends section 10 of Act 815 to provide for the object of the Ghana Heritage Fund. The object of the Fund is to provide an endowment to support development for future generations when petroleum reserves have been depleted.

Clause 4 of the Bill amends section 11 of Act 815 to provide for the Ghana Petroleum Funds to receive from the Petroleum Holding Fund not less than thirty percent of the Benchmark Revenue. This amendment is necessary to ensure that the Ghana Petroleum Funds receive petroleum revenues whether or not the Annual Budget Funding meets its ceiling amount. Clause 4 also provides for the exact percentage of moneys to be transferred to the Ghana Stabilisation Fund.

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Clause 5 of the Bill amends section 12 of Act 815 to provide that a transfer from the Ghana Stabilisation Fund should be done for the purposes of alleviating shortfalls in actual petroleum revenue in accordance with subsection (1) to (4) of section 12 of Act 815. Furthermore, a transfer into the Contingency Fund and for debt repayment must be in accordance with sections 23(4) and 23(5) of Act 815. *Clause 5* of the Bill also provides for the limit of amount that may be withdrawn from the Ghana Stabilisation Fund for the purpose of alleviating a shortfall in actual petroleum revenue.

Section 16 of Act 815 is amended in *clause 6*, to include matters that were previously provided for under subsections (2) and (3) of section 7 of Act 815. This is to ensure that payment to the national oil company receives topmost priority. The amendment also seeks to ensure flexibility in order to make room for more than one national petroleum company. Furthermore, *clause 6* of the Bill seeks to ensure that revenue due to the national oil companies is expeditiously released to them for the conduct of businesses. A national oil company may use its allocation to leverage loans and meet its gas payment obligations.

Clause 7 of the Bill amends section 17 of Act 815 to mandate the Minister to recommend to Parliament a revision of the Benchmark Revenue where it becomes evident that unexpected petroleum price movements or production conditions have resulted or are likely to result in a gross over projection or under projection of the Benchmark Revenue.

Clause 8 of the Bill amends section 21 of Act 815 to provide for the amount allocated to the Ghana Infrastructure Investment Fund to be included in the national budget for Parliamentary approval.

Clause 9 of the Bill amends section 23 of Act 815 with respect to the headnote. The headnote to section 23 of Act 815 is indicated under *clause 9* of the Bill as “Transfer of excess petroleum revenue into the Ghana Petroleum Funds.”.

Clause 10 of the Bill amends section 31 of Act 815 to provide for the members of the Investment Advisory Committee. Even though the members of the Committee are still seven in number, the number of women has been increased from one to two.

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Section 48 of Act 815 is amended in *clause 11* of the Bill to require the Minister to present a report to Parliament describing the stage of implementation of the programmed activities funded by the expenditure incurred on the activities covered by the Annual Budget Funding Amount, and to indicate the portion of the Annual Budget Funding Amount allocated to the Ghana Infrastructure Investment Fund. This amendment seeks to ensure that budgetary allocation is made for the benefit of the Ghana Infrastructure Investment Fund.

The membership of the Accountability Committee under section 54 of Act 815 has been increased from eleven members to thirteen members, *clause 12*.

Section 57 of Act 815 has been amended to require the Accountability Committee to submit a budget on the annual programme of the Committee to the Minister for purposes of inclusion in the annual national budget, *clause 13*.

The typographical error in section 60 of Act 815 has been corrected under *clause 14* of the Bill.

Section 61 of Act 815 which is on interpretation has been amended under *clause 15* of the Bill. The definition for “corporate income tax” has been inserted. “Corporate income tax” has the meaning assigned to “corporate income tax” under the laws of the country. Likewise, “equity financing cost”, “gas”, “Ghana Infrastructure Investment Fund” and others have been inserted.

The first and second schedules to Act 815 have been amended under *clauses 16 and 17* respectively.

HON. SETH E. TERKPER
Minister responsible for Finance

Date: 12th March, 2015.