

REPORT OF THE FINANCE COMMITTEE

ON

THE PETROLEUM REVENUE MANAGEMENT (AMENDMENT) BILL, 2015

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**REPORT OF THE FINANCE COMMITTEE ON THE PETROLEUM
REVENUE (AMENDMENT) BILL**

1.0 INTRODUCTION

The Petroleum Revenue Management Act (Amendment) Bill, 2015 was presented to Parliament and read the first time by the Hon. Minister for Finance, Mr. Emmanuel Seth Terkpeh on Friday, 13th March, 2015 and referred to the Finance Committee for consideration and report in accordance with Article 174(1) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

The Committee was assisted in its deliberations by the Hon. Deputy Ministers of Finance, Mr. Cassiel Ato Baah Forson and Mrs. Mona K. Quartey and Officials from the Ministry of Finance, Ghana National Petroleum Corporation (GNPC), Bank of Ghana (BOG), Public Interest and Accountability Committee (PIAC), Natural Resource Governance Institute and the African Center for Energy Policy (ACEP).

The Committee expresses its profound gratitude to the Hon. Minister and Officials of the Ministry, GNPC, BOG, PIAC, ACEP and the Natural Resource Governance Institute for attending upon it and assisting in the deliberations.

1.0 REFERENCE

The Committee referred to the following additional documents during its deliberations:

- The 1992 Constitution of Ghana;

- The Standing Orders of the Parliament of Ghana; and
- Petroleum Revenue Management Act, 2011 (Act 815).

2.0 BACKGROUND

The Petroleum Revenue Management Act 2011 (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, there are some implementation challenges with some provisions of the Act. Also the Act exposed some inconsistencies and typographical errors that need to be rectified. The main substance of Act 815 has generally been maintained in the Bill.

4.0 PURPOSE OF THE BILL

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 and Investment Funds for the purposes of infrastructure development and to provide for the composition of the Investment Advisory Committee.

5.0 DIVISION OF THE BILL

The Bill is divided into Seventeen (17) Clauses with clauses 1 to 15 seeking to amend sections 5, 7, 10, 11, 12, 16, 17, 21, 23, 31, 48, 54, 57, 60 and 61 of Act 815 respectively. The First and Second Schedules of the Act are also amended in Clauses 16 and 17 of the Bill. The details of the Amendment are as follows:

Clause 1 amends sub-section (2) of section 5 of Act 815 to correct a typographical error but the substance remains the same.

Clause 2 amends section 7 of Act 815 to provide for the specific issues of carried and participating interests as provided for in subsection (1) of Section 7

Clause 3 amends section 10 of Act 815 to provide for the objects of the Ghana Petroleum Funds which is to provide an endowment Fund to support future national development projects when petroleum resources are exhausted.

Clause 4 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. It also provides for the exact percentage of monies to be transferred to the Ghana Stabilization Fund.

Clause 5 amends section 12 of Act 815 to provide for the transfer of funds from the Ghana Stabilization Fund to be done for the purpose of alleviating shortfalls in actual petroleum revenues in accordance with subsection (1) to (4) of Section 12. It also provides the procedure for transfer into the Contingency Fund and also transfers for the purposes of debt repayment. The amendment also sets a limit on the amount that may be withdrawn from the Ghana Stabilization Fund for the purpose of alleviating a shortfall in actual petroleum revenues.

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.

Clause 7 of the Bill amends section 17 of Act 815 to mandate the Minister responsible for Finance 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 to allow for the transfer of excess petroleum revenue into the petroleum Fund. The headnote to section 23 of Act 815 is also amended to reflect the amendment in the body of the subsection.

Clause 10 of the Bill amends section 31 of Act 815 to increase the representation of women on 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.

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.

The typographical error which indicated that the membership of the Accountability Committee under section 54 of Act 815 was eleven members has been corrected under *clause 12* to portray the correct figure of thirteen members.

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 Finance for purposes of inclusion in the annual national budget in *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. A new definition for “corporate income tax”, “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.

6.0 OBSERVATIONS

Rationale for the Amendment

Commenting on the rationale for the Bill, the Deputy Minister of Finance Mr. Cassiel Ato Baah Forson intimated that the implementation of the PRMA has brought to the fore certain inconsistencies and operational challenges. The Deputy Minister stated that the Ministry of Finance widely consulted with the other PRMA stakeholders on these operational challenges and together recommended a review of the PRMA to correct these inconsistencies and the operational and administrative challenges of the Act. The Deputy Minister added that after much publicity in both the print and electronic media inputs were received from the public which largely informed the proposed amendments in the Bill. The Deputy Minister stressed that the amendment therefore seeks to ensure that the implementation of Act 815 is generally in conformity with the intentment of the drafters.

Amendment of Section 7 of Act 815

The Committee noted that clause 2 of the Bill seeks to amend section 7 by the deletion of subsections (2) and (3) with a modified rendition being added to section 16. It was explained that this is to ensure that payment to the national oil company receives topmost priority and also ensure that revenues due to the national oil companies are expeditiously released to them for the conduct of business.

But the Committee recalls that the purpose of sub-section (2) in particular is to empower the National oil Company (GNPC) as a commercial entity, to be competitive and its revenue flows also be insulated from the general pool of government revenues and uses. The ultimate aim is to make GNPC an operator in the field. This also in line with government policy of strengthening SOEs to be able to borrow on the strength of their own balance sheets and not to rely on central government guarantees. The Committee believes that the rendition as in the parent Act would better serve this purpose than the proposed amendment. The Committee therefore proposes that the provision as pertained in the parent Act be maintained.

Funding of the activities of PIAC

The Committee noted that section 57 of the PRMA is being amended to provide for funding for the activities of PIAC which was inadvertently over-looked by Parliament during the passage of Act 815. The amendment provides that PIAC shall submit a budget on annual programme of the Committee to the Finance Minister for inclusion in the annual national budget. The Committee is happy that eventually, the error is being corrected. The Committee is however, of the view that considering the enormous responsibilities assigned to PIAC under the Act, there will be the need for a dedicated and sustainable source of funding to support its activities. The Committee opines that the provision, as indicated above, would subject PIAC to the annual ritual of inadequate, untimely and at times non-release of budgetary allocations suffered by MMDAs. The Committee argues further that the provision will also not ensure sufficient resource allocation for PIAC to effectively fulfil its core mandate. The Committee therefore recommends that a stronger long-term commitment be obtained to fund PIAC. The Committee in this regard recommends an allocation against the ABFA to fund the annual programme of PIAC.

7.0 PROPOSED AMENDMENTS

The Committee having carefully scrutinised the Bill proposes the following amendments for the consideration of the House:

- i) **Clause 2** – Amendment proposed – delete
- ii) **Clause 4** – Amendment proposed –
 - a. Sub-clause (a) lines 2 and 4, delete “Benchmark Revenue” and insert “actual petroleum receipt net of the national oil company’s share”

- b. Sub-clause (b) line 2, insert “Not less than” before “thirty”
- c. Sub-clause (b) delete the words “to the Ghana Petroleum Funds” in line 2 and 3.

iii). **Clause 6** – Amendment proposed – delete

iv). **Clause 8** – Amendment proposed – Sub-clause 4 (a), line 5, substitute “and” for “or”.

v). **Clause 11** – Amendment proposed – Sub-clause (b), paragraph (i), line 2, after “by”, insert “and”

vi). **Clause 13** – Amendment proposed – insert a new sub-clause (2) as follows:

“(2) subject to (1), the budget on the annual programme of the Accountability Committee shall be a charge on the ABFA for each financial year”.

vii). **Clause 15** – Amendment proposed sub-clause (d) delete

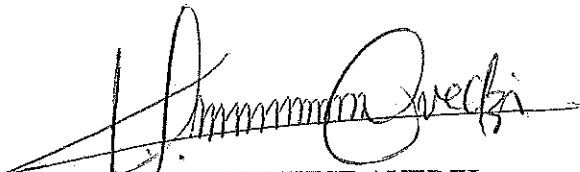
viii). **Clause 16**- Amendment proposed- sub-clause (c) delete and insert the following

“(4) expected revenue from gas shall be the product of the average actual and expected unit prices of domestic natural gas at which the national gas aggregator buys natural gas from the operator of the petroleum fields; and domestic gas quantity. The expected natural gas price shall be derived from seven-year moving average, the seven years being the four years immediately preceding the current financial year, the current financial year and the two years immediately following the current financial year. The expected natural gas quantity shall be derived as defined in (2)”.

8.0 **CONCLUSION**

The Committee upon a thorough examination of the Bill recommends to the House to adopt its report and take the Petroleum Revenue Management (Amendment) Bill, 2015 through the second reading.

Respectfully submitted.



**HON. JAMES KLUTSE AVEDZI
(CHAIRMAN, FINANCE COMMITTEE)**



**ROSEMARY ARTHUR SARKODIE (MRS)
(CLERK, FINANCE COMMITTEE)**

June, 2015