

BILLS SUPPLEMENT

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Bill No. 27 *Public Finance Management (Amendment) Bill* **2021**

**THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)
BILL, 2021**

MEMORANDUM

1. POLICY AND PRINCIPLES

The purpose of this Bill is to amend the Public Finance Management Act, 2015, to allow the Uganda National Oil Company (UNOC) to retain a portion of the proceeds from the sale of petroleum accruing from the Government's State participating interest in the Production Sharing Agreements to meet Government's and UNOC's financial obligations in the Tariff and Transportation Agreement (TTA), the Production Sharing Agreements (PSAs) and the Joint Operating Agreements.

2. DEFECTS IN THE EXISTING LAW

Section 56 of the Public Finance Management Act, 2015 establishes the Petroleum Fund into which all petroleum revenues which accrue to Government must be paid. This implies that all proceeds, including those arising from the sale of the State Participation, should be paid directly into the Petroleum Fund. The Act therefore does not provide for a mechanism by which the obligations of UNOC as a licensee under the Production Sharing Agreement (PSA) and Joint Operating Agreement (JOA) are met in a manner consistent with the key contractual provisions, including cost recovery, under the Production Sharing Agreements and Joint Operating Agreements. Similarly, the Act does not provide for the payment of tariff obligations under the

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Host Government Agreement (HGA) and Transportation and Tariff Agreement (TTA), before net proceeds can be deposited into the Petroleum Fund.

3. *REMEDIES PROPOSED TO DEAL WITH THE DEFECTS*

The Bill therefore seeks to amend the Public Finance Management Act 2015 to allow the Uganda National Oil Company (UNOC) access to the proceeds from the sale of its interest in the crude oil in order to—

- (a) meet all its financial obligations arising from applicable Production Sharing Agreements and Joint Operating Agreements in each calendar year, based on an approved Work Program and Budgets (and amendments thereto) for the calendar year in issue; and
- (b) meet obligations borne by Uganda National Oil Company on its own behalf as well as on behalf of the State as provided for in the relevant contractual agreements, including the Host Government Agreement, the Tariff and Transportation Agreement and applicable laws.

UNOC is required to deposit the proceeds retained after expending moneys for the purposes referred to in (a) and (b) above into the Petroleum Fund. Part of these proceeds may then be appropriated by Parliament to fund approved investments of the Uganda National Oil Company.

HON. MATIA KASAIJA,
Minister of Finance, Planning and Economic Development.

A Bill for an Act

ENTITLED

**THE PUBLIC FINANCE MANAGEMENT (AMENDMENT)
ACT, 2021**

An Act to amend the Public Finance Management Act, 2015 to enable the National Oil Company to retain proceeds from the sale of petroleum arising from the State participating interest in the applicable petroleum agreements for purposes of meeting its financial obligations arising from the applicable petroleum agreements and Joint Operating Agreements in each financial year, based on the approved work programme and budgets for the financial year in issue; for meeting obligations on its own behalf as well as on behalf of the State as provided for in the relevant petroleum agreements and the East Africa Crude Oil Pipeline Act, 2021; to provide for the deposit by the National Oil Company of the balance from the proceeds retained into the Petroleum Fund and for the appropriation of funds to the National Oil Company for approved investments.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 3 of Act 3 of 2015

The Public Finance Management Act, 2015 is amended in section 3, by substituting for the definition of “petroleum revenue” the following—

“petroleum revenue” means tax paid under the Income Tax Act on income derived from petroleum operations, Government share of production, signature bonus, surface rentals, royalties, proceeds from the sale of Government share of production, any dividends due to Government, proceeds from the sale of Government’s commercial interests and any other duties or fees payable to the Government from contract revenues under a petroleum agreement but excludes proceeds from the sale of petroleum arising out of the state participating interest in the applicable petroleum agreements;”.

2. Amendment of section 57 of Act 3 of 2015

The Public Finance Management Act, 2015 is amended in section 57 by inserting immediately after subsection (5) the following—

“(5a) Notwithstanding subsection (5), the National Oil Company shall retain the proceeds from the sale of petroleum arising from the state participating interest in applicable petroleum agreements for purposes of—

- (i) meeting its financial obligations arising from applicable petroleum agreements and Joint Operating Agreements, in each financial year, based on the approved work programme and budgets for the financial year; and
- (ii) meeting obligations borne by the National Oil Company on its own behalf and on behalf of the Government as provided for in the Host Government Agreement, the Tariff and Transportation Agreement and the East Africa Crude Oil Pipeline Act, 2021.

(5b) The National Oil Company shall deposit the balance of the proceeds retained after expending moneys for the purposes of subsection (5a) into the Petroleum Fund

and shall submit a copy of the record to the Minister, the Uganda Revenue Authority, the Secretary to the Treasury, the Accountant General and the Auditor General.

- (5c) Notwithstanding sections 58 and 59, the proceeds retained after expending moneys for the purposes of subsection (5a) shall be deposited into the Petroleum Fund and a portion of those proceeds may be appropriated by Parliament to fund approved investments of the National Oil Company.
- (5d) For the purposes of subsection (5c), “approved investments” means investments approved by the Board of Directors of the National Oil Company and Cabinet, to be implemented in a specified financial year.

Cross References

Income Tax Act, Cap. 340

East African Crude Oil Pipeline (EACOP) (Special Provisions) Act