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Change and Continuity: The Enduring Legacies of DPR Guidelines and Regulations in Nigeria's Post-PIA 2021 Oil and Gas Industry

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Abstract

The enduring legacies of the Department of Petroleum Resources (DPR) is the cornerstone of the Nigerian oil and gas industry's regulatory compliance. This paper examined the enduring impact of the DPR's Guidelines and Regulations in Nigeria's oil and gas industry in spite of the dissolution of DPR by the Petroleum Industry Act (PIA) 2021, its guidelines and regulations subsists to regulate the Nigerian oil and gas industry. The paper adopted the doctrinal research method in analyzing the historical evolution and roles of the DPR, impact of the DPR's guidelines and regulations on the oil and gas industry in Nigeria before and after the enactment of the PIA 2021, and the attitude of the new regulatory agencies. It maintained that though the PIA introduced new Regulatory framework in place of DPR, the DPR's legacy continues to shape the industry's operations, compliance requirements and regulatory practices. The paper found that the enduring impact of the DPR's guidelines and regulations is evidence of its indispensable relevance in the Nigerian oil and gas industry. It concluded that the regulatory frameworks need reinforcement to evolve effective mechanisms that promotes transparency, accountability and consistency to realize institutional capacity, human capital development and infrastructural upgrade to achieve regulatory effectiveness. The paper recommended transparent regulatory decisions and accountability of officials, collaboration with regulatory agencies, industry stakeholders, and government institutions to promote cohesive and effective regulatory environment, a balanced consumer protection, quality control and product assurance for business growth, customer satisfaction and safety without stifling investment.

Keywords: Enduring legacies, DPR Guidelines, regulations, Petroleum Industry Act.

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1. Introduction

The Department of Petroleum Resources (DPR) was a hub for industry business regulations, opportunities and investments in the Nigeria Oil and Gas industry. It stood out as the arrowhead for the regulation and monitoring of oil and gas operations in Nigeria to guarantee regulatory

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efficiency and safety.¹ The epoch-making role of the Department of Petroleum Resources (DPR) in the improvement and regulation of Nigeria's oil and gas industry cannot be over emphasized. This article set out to interrogate the transition with the view to discover any distortion of the impact of DPR in the process but confirms however, vividly that what really happened was change and continuity in the regulatory framework, due to the enduring impact of DPR guidelines and regulations even in the post-PIA oil and gas industry. The article intends to assess the possible gap created by the replacement of DPR and its impactful era and legacies left on the sand of times in the Nigerian oil and gas Industry in view of the potential havoc the replacement of this arrowhead in the regulation of the oil and gas industry could have created. The curiosity to assess the effect of the change, the distortions and emerging strategies to contend it, triggered the interest to research on this paper. The research revealed that the change did not create any serious distortion in the flow of industrial regulatory activities as the new agencies continues from where the hitherto DPR stopped irrespective of the fact that the roles hitherto played DPR alone is now split into two compartments and each manned by the agency designated for the regulation of the activities in that sector. The paper tends to update the reader that though there was change and replacement but as well there was continuity without any distortion in the operational responsibilities of the industry. It equally intends to demonstrate that despite the change, the new agencies that replaced DPR took over the avowed obligations of DPR as split between the NUPRC and the NMDPRA in accordance with the provisions of the PIA 2021. The paper is structured into seven segments ranging from the background information to the history of the Nigerian oil and gas industry, the evolution of DPR, the new regulatory framework, their respective assignments in the new order, the roles hitherto played by DPR, the role of the industry stakeholders, the enduring influence of DPR and the enduring existence and applicability of DPR guidelines and regulations in spite of the replacement, conclusion and recommendation were painstakingly addressed.

2. History of the Oil and Gas Industry and Evolution of DPR

Historically, crude oil matters were assigned to the Ministry of Lagos Affairs through its Hydrocarbon Unit which was under the direct reporting and supervision of the Governor-general. The Section performed the duties of records keeping on exploration matters, importation of petroleum products; enforcement of safety standards and regulations on products importation and distribution². With the expansion of the petroleum industry activities, the Unit was upgraded to a Petroleum Division within the Ministry of Mines and Power. In 1971, the Nigerian National Oil Corporation (NNOC) was created to handle direct commercial operations in the Nigerian oil and gas industry on behalf of the Federal Government³, in spite of the above, the Department of Petroleum Resources in the Federal Ministry of Mines and Power continued to exercise statutory supervision and control of the industry. In 1975, the department was upgraded to a ministry and named the Ministry of Petroleum and Energy which was later renamed the Ministry of Petroleum Resources. However, the Ministry of Petroleum Resources was re-established⁴ in 1985.

¹ E. Elenwo and J. Akankali, 'Environmental Policies and Strategies in Nigeria Oil and Gas Industry: Gains, Challenges and Prospects', (2014) 5(24) *Natural Resources*, 884-896'; O.K. Nwankwo, F.S. Muku et al, 'Assessment of Safety Compliance in the Nigerian Oil and Gas Industry', *Paper presented at the SPE Nigerian Annual International Conference and Exhibition virtual August 2025 Paper NO. Spe-203604M8*.

² G.U. Nwokeji, 'The Nigerian National Petroleum Corporation and the Development of the Nigerian Oil and Gas Industry: History, Strategies and Current Direction', *Sponsored Petroleum Study by James A. Baker III Institute for Public Policy and Japan Petroleum Energy Center, Rice University*, 2007, p. 14.

³ Nwokeji, *ibid*, (n 2) 12-13.

⁴ *Ibid*.

The Nigerian oil and gas industry has undergone significant evolution with the passage of the Petroleum Industry Act (PIA) in 2021 which replaced the Department of Petroleum Resources (DPR) and established two new regulatory bodies, to wit; the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) to take over the statutory responsibilities of DPR. However, despite the replacement of DPR, its guidelines and regulations has continued to play formidable roles in regulating the industry implying that the *hitherto* guidelines and regulations were apt and well-articulated, enduring, useful and industry specific, with the capacity to survive transition without losing its flavours and impactful legacies.

Oil was first discovered in commercial quantity in Olibiri, Ogbia Local Government Area in Bayelsa state in 1956, and crude oil production and export began in 1958.⁵ The Nigerian National Petroleum Corporation Decree⁶ created the Petroleum Inspectorate⁷ as an integral part of the NNPC as well as merged the Ministry of Petroleum Resources and the Nigerian National Oil Corporation (NNOC) to form the Nigerian National Petroleum Corporation⁸ (NNPC), into one entity for the regulation of the petroleum industry, conserve the then scarce manpower resources in the oil industry as well as consolidate national resources for economic benefits.

In the course of time, the DPR evolved various guidelines and regulations which it implemented to govern the industry's operations. The Petroleum Act 1969 established the earliest framework for oil exploration and production in Nigeria. Its primary function was to oversee the exploration, production, and development of Nigeria's petroleum resources. Subsequently, the role of DPR increased to include regulatory functions, such as issuing licenses and permits, monitoring compliance with industry regulations, and enforcing safety and environmental standards.⁹ The DPR was responsible for monitoring and enforcing compliance with industry regulations, ensuring that oil and gas operators adhered to industry standards, safety protocols, and environmental regulations. However, the DPR was replaced in 2021 with the enactment of the Petroleum Industry Act (PIA), which established the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) to take over the statutory obligations and responsibilities of the defunct Department of Petroleum Resources (DPR) in continued regulation of the industry's safety and compliance. Throughout its existence, the DPR played a crucial role in shaping the Nigerian oil and gas industry and its legacy has continued to influence the industry's regulatory framework and practices. Despite the DPR's replacement, its guidelines and regulations shows that they are indispensable to the industry.

3. The New Regulatory Framework of the PIA

The PIA 2021 introduced new regulatory framework for the oil and gas industry, with the NUPRC¹⁰ and NMDPRA¹¹ assuming responsibilities previously handled by the DPR. The NUPRC is responsible for regulating upstream petroleum operations, while the NMDPRA

⁵ U.P. Adiela, 'Oil Exploration and Production in Nigeria: From Bottom to Top and Beyond', Series No. 83, Inaugural Lecture of the Rivers State University Port Harcourt, Wednesday 14th December, 2022, p. 4.

⁶ Decree No. 33, 1977.

⁷ Part II, section 9(1) of Decree No. 33 of 1977.

⁸ Part I, section 1(1) of Decree 33 of 1977.

⁹ H. Awodezi and S. U. Mohammed, 'Oil Pipelines Vandalism and Oil Theft: Security Threat to the Nigerian Economy and Environment', (2023) 3(1) *Journal of Environmental Law and Policy*, 170-188.

¹⁰ Nigerian Upstream Petroleum Regulatory Commission, see Chapter 1, part III, section 4, PIA 2021.

¹¹ Nigerian Midstream and Downstream Petroleum Regulatory Authority, see Chapter 1, part IV, section 29, PIA 2021.

oversees midstream and downstream activities¹² hitherto handled by the DPR. This new framework aims to promote efficiency, transparency, and accountability in the industry.¹³ The Department of Petroleum Resources (DPR) has had a lasting impact on the Nigerian oil and gas industry, despite its replacement.

3.1 The Role of DPR vis-à-vis the Upstream (NUPRC) Sector

The DPR had the statutory responsibility and obligation of ensuring compliance with petroleum laws, regulations and guidelines in the oil and gas industry. The discharge of these obligations involved monitoring of operations at drilling sites, production wells, platforms and low stations, crude oil export terminals, refineries, storage depots, pump stations, retail outlets, and other locations where petroleum is either stored or sold, and all pipelines carrying crude oil, natural gas and petroleum products.¹⁴

Firstly, the NUPRC is presently responsible for regulating oil and gas activities by processing industry applications for leases,¹⁵ licenses¹⁶ and permits where applicable; the application for relinquishment,¹⁷ abandonment,¹⁸ conversion,¹⁹ and making recommendations to the Minister; approving or rejecting applications for participating in the oil and gas industry including technical, operational and commercial regulations as the case may be.²⁰ In carrying out one of its functions of considering the merits of the applications for conversion from PPL, the defunct provision of the Petroleum Act 1969²¹ was marred by injustices of unfettered discretion.²²

For instance, in the case of *Southern Atlantic Petroleum Limited (SAPETRO) Ltd v Minister of Petroleum Resources & Ors.*,²³ the holder of Oil Prospecting Licence (OPL) 246 was unjustly prevented from taking full value of half of its Oil Prospecting Licence (500) square meters. Before the coming into existence of the PIA 2021 and during the hitherto Petroleum Act 1969,²⁴ SAPETRO was granted an OPL consisting of 1000 square meters in 1998 for 5 years, which was renewed in 2002 for another 5 years. SAPETRO discovered oil in commercial quantities in the eastern part of the OPL 246 (500 Square meters) after years of toiling and huge developmental investments, it applied to the Minister of Petroleum Resources for conversion of the eastern half of the OPL 246 to Oil Mining Lease (OML) pursuant to paragraph 8 of the First Schedule of Petroleum Act 1969,²⁵ the Federal Government approved the application and granted the OML

¹² Chapter 2 of PIA 2021, parts II, III, IV, V and VI comprising of sections 111 to 215 of the PIA 2021.

¹³ See 2(c) of the PIA 2021 among others.

¹⁴ Ibid, n 10

¹⁵ Sections 70, 76 and 81 of the PIA 2021.

¹⁶ Sections 71 and 72 of the PIA.

¹⁷ Sections 88 and 93 of the PIA 2021.

¹⁸ Section 89 of the PIA 2021.

¹⁹ Sections 92 and 93 of the PIA 2021.

²⁰ Sections 6(a), 7(n) and (o) of the PIA 2021.

²¹ Paragraph 8 of the First Schedule of Petroleum Act 1969 provides that an oil mining lease may be granted only to the holder of an oil prospecting licence who has satisfied all the conditions imposed on the licence or otherwise imposed on him by the Act, and discovered oil in commercial quantities, the provision of the defunct petroleum Act does not protect the rights of the licensee because it grants the Minister unfettered discretion to refuse the application of the licensee upon grounds which are not anticipated by law.

²² Paragraph 8 of the First Schedule to the Petroleum Act 1969 which is currently dowsed by section 81(1) which removed the discretion of the Minister and equally removed the clog of commercial quantity for commercial discovery pursuant to Reg. 7(1) (3)Reg. 13(1), (2) and (4) of Conversion and Renewal (Licences and Leases) Regulation 2022

²³ (2023) 7 NWLR (Pt. 1882) 135.

²⁴ Cap P 10 LFN 2004 now repealed by section 310 of the PIA 2021.

²⁵ Ibid.

lease over the eastern half, where Apo and Egina fields are currently situated which have produced close to one billion barrels of petroleum.

Unfortunately, SAPETRO was denied the opportunity to convert the western half of the OPL 246 on the basis of government policy that the western half has been relinquished to the government irrespective of the prospects that still exists in the OPL. SAPETRO sued to reclaim the Western half of the OPL 246 after the conversion application was denied by the minister, at the end of trial by way of judicial review, the court dismissed SAPETRO claim and held, *inter alia*, that the Minister has the discretion whether or not to grant an additional OML from the remaining portion of OPL 246 and was not under any legal duty to give reasons, for refusing to grant the application to convert the western half; that the government policy, requiring the remaining half of the OPL 246 to be automatically relinquished and reverted to government after the grant of OML 130 to SAPETRO was valid; and finally, that SAPETRO is not entitled to a mandatory grant of OML over the remaining portion of the OPL 246 (western half) 500 square meters. SAPETRO appealed unsuccessfully to both Court of Appeal and Supreme Court. An appraisal of the basis of the judgement and a critical overview of the current section 81(1)²⁶ of the PIA 2021 reveals that paragraph 8 of the First Schedule of Petroleum Act 1969 gave the Minister of Petroleum Resources unfettered discretion to grant or refuse the grant of a conversion even after the licence holder has fulfilled the pre-conditions. This anomaly and mischief was cured by the section 81(1) of the extant PIA 2021 by removing the unfettered discretion of the minister.

Secondly, the NUPRC has the statutory obligation to conserve Nigeria's hydrocarbon resources by maintaining records on petroleum industry operations, particularly on matters relating to petroleum reserves, production/export, licences and leases.²⁷ Moreover, the agency is equally charged with the responsibility of optimizing government revenue collection and take-in in oil and gas activities through timely and accurate payment of rents, Royalties and other revenues due to government.²⁸ The NUPRC also has the role of ensuring compliance of all applicable laws, regulations governing petroleum operations, HSE standards, by advising government and relevant agencies on technical matters, and public policies that may impact on the administration of petroleum resources.²⁹ Furthermore, the responsibility to provide a national data repository at the Lagos office, which is responsible for administrative support for effective monitoring of oil companies who hold oil prospecting licence, oil mining lease, marginal field operators, speculative and data trading companies³⁰ by maintaining and administering the National Data Repository (NDR)³¹ lies on NUPRC.

²⁶ A Petroleum Mining Lease shall be granted for each commercial discovery of crude oil or natural gas or both, to the licensee of a petroleum prospecting licence who has satisfied the conditions imposed on the licence or the licensee under this Act; received approval for the applicable field development plan from the Commission, while paragraph 8 of the First Schedule of Petroleum Act 1969 provides that an oil mining lease may be granted only to the holder of an oil prospecting licence who has satisfied all the conditions imposed on the licence or otherwise imposed on him by the Act, and discovered oil in commercial quantities, the provision of the defunct petroleum Act does not protect the rights of the licensee because it grants the Minister unfettered discretion to refuse the application of the licensee upon grounds which are not anticipated by law. While the current PIA at its section 81(1) removed the discretion of the Minister and equally removed the clog of commercial quantity and replaced same with a safer concept of a commercial discovery. See also Reg. 7(1) & (3) and Reg. 13(1),(2) & (4) of Conversion and Renewal (Licenses and Leases) Regulation 2022.

²⁷ Section 7(e) and (c) of the PIA 2021; see also section 2(a) to (j) of the National Data Repository Regulation 2020.

²⁸ Section 7(w) PIA 2021.

²⁹ Section 6(b) and (i) PIA 2021.

³⁰ Reg. 2(a) to (j) of National Data Repository Regulations, 2020, *ibid*, n 24

³¹ Section 7(m), (r), (z) and (k) of the PIA 2021; see also section 2(a) to (j), *ibid*, n 24

Additionally, the obligation to administer oil and gas acreages and concessions through the supervising all petroleum industry operations being carried out under licenses and leases in the industry falls under the statutory obligations of DPR now NUPRC.³²

It is also the responsibility of the NUPRC to implement government policies on Upstream oil and gas matters and ensure that upstream operations are seamlessly conducted to minimise waste and achieve optimal government revenue by monitoring the petroleum industry operations to ensure alignment with National goals and aspirations, including those relating to flare down and domestic Gas Supply Obligation.³³ The Commission has the power to acquire, hold and dispose of property, sue and be sued in its own name,³⁴ and be responsible for the technical, and commercial regulations of upstream petroleum operations³⁵ which includes approval of expatriate quota in line with the provisions of the Nigerian Oil and Gas Industry Content Act 2010,³⁶ Immigration Regulations³⁷ and the Expatriate Quota Administration.³⁸

It is necessary to know that these guidelines³⁹ of DPR, NUPRC and the Minister of Petroleum Resources present or hitherto are not sacrosanct, but subject like any other law, guidelines or regulation to the overall supervision of the Court that has requisite jurisdiction. In *Shell Petroleum Development Company of Nigeria v Minister of Petroleum Resources and 2 Ors.*,⁴⁰ the employment of one of Shell staff, one Gbenuade Joko Olanitori, was terminated who petitioned to Department of Petroleum Resources (DPR)⁴¹ that the permission of the Minister was not sought and obtained in line with the regulation governing his employment. But Shell responded that it terminated the employment under the extant contract between the parties and that the guideline was not applicable. Based on Shell's response and acting under its powers pursuant to the requisite Guidelines,⁴² DPR wrote to Shell and imposed a fine of 250,000 US Dollars against Shell for its failure to seek and obtain the Minister's approval prior to the termination of the petitioner's employment being an employment governed by the Guidelines. Being dissatisfied,

³² Sections 7(s), 9(1),(2),(3) and (4), *ibid*.

³³ Section 6(c) and Section 7 and (i), *ibid*.

³⁴ Section 4(2), *ibid*.

³⁵ Section 4(3), *ibid*.

³⁶ Sections 32 and 33(1) of the NOGICDA 2010.

³⁷ Reg. 12(1) to (5) of the Immigration Regulations 2017.

³⁸ Paragraph 2.3, 3(ii) and (viii) of the Ministry of Interior, Handbook on Expatriate Quota Administration, 2022.

³⁹ Guideline for the Release of Staff in Nigeria Oil and Gas Industry 2019 based on Regulation 15A made under the power of the Minister of Petroleum Resources pursuant to section 9 of the Petroleum Act 1969 and section 3 of the Petroleum Industry Act 2021. The two contradictory decisions arose from the interpretation of the Guideline for the Release of Staff in Nigeria Oil and Gas Industry 2019 based on Regulation 15A made under the power of the Minister of Petroleum Resources pursuant to section 9 of the Petroleum Act 1969 by court of coordinate jurisdiction between 2020 and 2022 in the cases of *Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) & 3 Ors v Chevron Nigeria Limited* Suit No: NICN/LA/411/2020 and *Shell Petroleum Development Company of Nigeria v Minister of Petroleum Resources and 2 Ors* Suit No. NICN/ABJ/178/2022 buttressing the fact that the Guidelines is not sacrosanct but may be challenged by the aggrieved entities; others worthy of mention include Procedure Guideline for the Design and Construction of Oil and Gas surface production facilities, Guidelines for the establishment of hydrocarbon process (petroleum refinery and petrochemical plant) and Guidelines for approval to construct and operate petroleum product filling stations. The very implication is that the guidelines are prone to judicial test.

⁴⁰ Suit No. NICN/ABJ/178/2022 (SPDC case)

⁴¹ DPR is now run by the Nigerian Upstream Petroleum Regulatory Commission by virtue of section 312(1) of the Petroleum Industry Act 2021.

⁴² Guideline for the Release of Staff in Nigeria Oil and Gas Industry 2019 based on Regulation 15A made under the power of the Minister of Petroleum Resources pursuant to section 9 of the Petroleum Act 1969 and section 3 of the Petroleum Industry Act 2021. This Guideline generated two contradictory decisions in two cases before court of coordinate jurisdiction between 2021 and 2022.

with DPR's position, Shell instituted an action at the National Industrial Court against the Minister of Petroleum Resources and 2 others, challenging DPR's powers to impose fine and the validity of the Guidelines to apply to the petitioner's contract of employment in the face of a subsisting National Industrial Court judgement delivered earlier in 2021 in *Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) & 3 Ors v Chevron Nigeria Limited*,⁴³ where, the NIC per Hon. Justice E.A. Oji, of the National Industrial Court of Nigeria, Lagos Judicial Division, held that the Guidelines for the Release of Staff in the Nigeria Oil and Gas Industry 2019 ("Guidelines") were invalid and inapplicable to employment contracts in the petroleum industry, as the Minister did not have the power it conferred on itself in promulgating Regulation 15A of the Petroleum Drilling and Production Regulation 1969.

The judgment in the *SPDC case* differs⁴⁴ from an earlier decision of the NIC in *Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) & 3 Ors v Chevron Nigeria Limited*,⁴⁵ in which the NIC held that the Guidelines were *ultra vires* the powers of the Minister of Petroleum and were therefore inapplicable to employment contracts in the petroleum industry. Unless the judgment in the *SPDC case* is reversed on appeal, all companies operating in the oil and gas industry will require the approval of the Minister of Petroleum Resources before disengaging any of their staff. Failure to comply with this directive attracts a fine of USD250, 000.00. The overall implication of these cases cited is to demonstrate that the Guidelines and Regulations is subject to judicial review, where necessary.

3.2 The Role of DPR vis-à-vis Midstream and Downstream (NMDPRA) Sector

One of the basic and cardinal roles of DPR now NMDPRA is the issuance of approvals and licenses for refineries,⁴⁶ petrochemicals,⁴⁷ fertilizers plants, jetties, bulk petroleum storage licence,⁴⁸ gas processing licences,⁴⁹ bulk gas storage licence,⁵⁰ gas transportation pipeline licence,⁵¹ grant of wholesale gas supply,⁵² retail gas supply licence,⁵³ gas distribution licence,⁵⁴ depots, lube blending and retail outlets, grant of renewal or extension of license or permit⁵⁵ for midstream and downstream petroleum operations⁵⁶ so far as the conditions for the grant of the licence or permit for midstream and downstream petroleum operations are fulfilled.⁵⁷ Secondly, the Authority has the statutory responsibility to make Regulations and Guidelines for the grant or renewal of licenses for midstream or downstream petroleum operations.⁵⁸ Thirdly, it also has the statutory obligations for the advertisement of license applications and grant of the renewal⁵⁹ in the manner prescribed by a regulation made under the Act⁶⁰ upon which basis interested parties

⁴³ Suit No: NICN/LA/411/2020.

⁴⁴ n 40, *ibid*

⁴⁵ *Supra*.

⁴⁶ Section 183 and 184 of the PIA 2021.

⁴⁷ Section 204, *ibid*.

⁴⁸ Section 187, *ibid*.

⁴⁹ Section 129, *ibid*.

⁵⁰ Section 132, *ibid*.

⁵¹ Section 135, *ibid*.

⁵² Section 143, *ibid*.

⁵³ Section 146, *ibid*.

⁵⁴ Section 148, *ibid*.

⁵⁵ Section 111(4)(a)-(c), *ibid*.

⁵⁶ See section 111(2) and (3), *ibid*.

⁵⁷ Section 114, *ibid*.

⁵⁸ Section 113, *ibid*.

⁵⁹ See section 112(3), *ibid*.

⁶⁰ Section 112 (1) and (2), *ibid*.

may comment or make representations to the Authority in respect of the decision pertaining to their application within the time prescribed by the Act.⁶¹ Fourthly, the Authority has the responsibility to receive, accept, refuse, reject, consider and/or approve application for assignment⁶² or transfer of license or permit or any interest, rights or obligation arising from the licence or permit without prior written consent and approval of the Authority.⁶³ Fifthly, the Authority must follow the procedure laid down to determine whether the license or permit will be reassigned.⁶⁴

Furthermore, the Authority also has the responsibility to receive the surrender of licence or permit⁶⁵ as well as revocation of licence or permit relating to midstream and downstream petroleum operations⁶⁶ provided, the Authority complies with the grounds for the revocation of licence or permit⁶⁷ and procedure for the surrender of licence or permit sent forth in reasonable details, the default of the holder.⁶⁸ Where the Authority intends to revoke the licence or permit, there will be notice of default prior to revocation to be served on the holder setting forth in reasonable details the default of the holder,⁶⁹ giving the holder 60 days within which to remedy the default,⁷⁰ where the Authority is satisfied with the remedy of the holder, the revocation process will be terminated.⁷¹ The Authority also has the duty to determine the quality of imported petroleum products to ensure they meet established standards, issue import and export permit for crude oil and petroleum products, ensure measurement and integrity at custody transfer points, ensure integrity of downstream oil and gas facilities and pipeline systems, ensure prompt nomination of crude, condensate and NGL export vessels and make Regulations subject to section 216 of the Act,⁷² concerning all the activities of the midstream and downstream sectors.⁷³

4. The Roles of Industry Stakeholders and the Emerging Regulators

The continued relevance of DPR guidelines and regulations has significant implications for industry stakeholders. Operators and investors must ensure that they comply with the existing regulatory framework, while also adapting to the new institutional arrangements introduced by the PIA 2021. This requires a thorough understanding of the new regulatory framework and the continued applicability of DPR guidelines and regulations. The role and relationship of DPR to FIRS,⁷⁴ NNPC,⁷⁵ CBN⁷⁶ International Organisations, Service Companies and Oil Companies in the Nigerian oil and gas industry is critical.

The Department of Petroleum Resources (DPR) played a crucial role in the Nigerian oil and gas industry, in collaboration with major industry and economy stakeholders. Firstly, the DPR was charged with the responsibility of regulating the industry while the Federal Inland Revenue

⁶¹ Section 112 (2), *ibid.*

⁶² Section 117 (1) and (2), *ibid.*

⁶³ Section 117(1), *ibid.*

⁶⁴ Section 117(3)(a)-(d), *ibid.*

⁶⁵ Section 120(1)(a), *ibid.*

⁶⁶ Section 119(1)(a), *ibid.*

⁶⁷ Section 120 (1)(a) to (j), *ibid.*

⁶⁸ Section 119(a) to(d) and (3), *ibid.*

⁶⁹ Section 121(1), *ibid.*

⁷⁰ Section 121(1)(b), *ibid.*

⁷¹ Section 121(2), *ibid.*

⁷² Petroleum Industry Act (PIA) 2021.

⁷³ Section 33(a) to (y), *ibid.*

⁷⁴ Federal Inland Revenue Service now Nigerian Revenue Service.

⁷⁵ Nigeria National Petroleum Company Limited.

⁷⁶ Central Bank of Nigeria.

Service (FIRS) was statutorily obligated to handle tax-related matters, including collecting taxes, rent and fees, levies, royalties, signature bonuses, hydrocarbon tax, company income tax etc.⁷⁷ The DPR and FIRS collaborate on issues like tax compliance and revenue collection.

Secondly, the DPR regulated the industry, while the Nigerian National Petroleum Company (NNPCL) Limited participated in oil and gas operations, exploration, production, and marketing. The NNPC Limited also has subsidiaries involved in various aspects of the industry. Thirdly, the Central Bank of Nigeria (CBN) which is the industry's stakeholder, manages foreign exchange, and the DPR may interact with them on issues like foreign exchange regulations affecting the industry. Recently, the CBN imposed limits on foreign currency transfers from crude export proceeds by international oil companies.⁷⁸ In Nigeria, the transfer of funds derived from oil and natural gas production is governed by various regulations, primarily under the Foreign Exchange Act⁷⁹ and guidelines issued by the Central Bank of Nigeria (CBN). The basic restrictions on Currency Exchange and Fund Transfers include the foreign currency domiciliary accounts which requires that all exporters, including petroleum producers, must maintain a foreign currency domiciliary account in Nigeria where export proceeds from crude oil are deposited.⁸⁰ Secondly, is the Certificate of Capital Importation (CCI) which request that foreign investors must obtain a CCI to represent capital inflows into Nigeria, which facilitates the repatriation of capital outflows, dividends, profits, and other financial returns.⁸¹ Thirdly, is the limits on foreign exchange transfers, by which CBN imposes limits on foreign exchange transfers.⁸² Companies may apply for exceptions or approvals for transfers beyond these limits based on specific business needs or regulatory compliance. Regulatory approval for fund transfers, which requires approval for the transfer overseas of any funds by an Incorporated Joint Venture Company (IJVC) is subject to CBN regulations and policies.⁸³

Fourthly, the DPR collaborated with international organisations on industry standards, best practices, and regulatory frameworks, Nigeria's membership in organisations like OPEC, New York Convention on Recognition of Arbitral Awards ratified in March 17, 1970 and adopted into the second schedule of the Nigeria Arbitration and Conciliation Act⁸⁴ and the Convention in the International Center for Settlement of Investment Disputes (Enforcement of Awards) Act 2004.⁸⁵ Fifthly, the DPR regulated service companies operating in the industry, ensuring they comply with industry standards and regulations. Service companies may need to register with the DPR or other regulatory bodies to operate in Nigeria.

⁷⁷ By virtue of section 302(1) of the PIA 2021 all entities such as upstream, midstream, downstream petroleum operations including concessionaire, licencees, leases, contractors or subcontractors, partnership, company wound up in the name of the liquidator or receiver are liable to income tax under the Companies Income Tax, Cap. C21 LFN 2004, these taxes are payable FIRS now Nigeria Revenue Service by virtue of sections 24(2)(b), (d), (e), (4), (7), (w), 259(a), (i), (ii), (b)(i)(ii) of the PIA 2021

⁷⁸ CBN directive issued on the 14th of February 2024 titled 'Directive on Foreign Currency Pooling by Banks on behalf of International Oil Company'

⁷⁹ Foreign Exchange Act (Monitoring and Miscellaneous Provisions) Act (FEMM Act) Cap F34 LFN 2004 (formerly Decree 17 of 1995).

⁸⁰ Section 19 of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act Cap F34, LFN 2004 and the Directive of Foreign Currency Pooling by Bank on behalf of International Oil Companies dated February 14 2024; Arise News16, 2024 CBN Restricts Export Proceeds Repatriation by Oil Companies

⁸¹ Ibid.

⁸² In February14, 2024, the CBN imposed limits on foreign currency transfers from crude export proceeds by international oil companies to their parent firms, CBN directive issued on the 14th of February 2024 titled 'Directive on Foreign Currency Pooling by Banks on behalf of International Oil Company'.

⁸³ Section 6(4) Second Schedule to the PIA 2021.

⁸⁴ Arbitration and Conciliation Act Cap A18 LFN 2004 now Arbitration and Mediation Act 2023.

⁸⁵ Nigeria became a signatory to the ICSID Convention on the 13th June 1965.

Lastly, the DPR's primary role was to regulate oil companies, issuing licenses and permits, monitoring compliance, and enforcing safety and environmental standards. Oil companies must adhere to the DPR's guidelines and Regulations to operate in Nigeria.

5. Enduring DPR Standards, Guidelines, Regulations and Influences

In all, the DPR's enduring impact on the Nigerian oil and gas industry is evident in the continued relevance of its Guidelines, Regulations, and oversight functions. Although the DPR is no longer in existence, its guidelines and regulations remain relevant and in use in the industry. Many of the DPR's guidelines and regulations have been adopted and incorporated into the new regulatory framework established by the PIA.⁸⁶

The NUPRC has issued and inherited Guidelines⁸⁷ and regulations on various aspects of upstream petroleum operations, including decommissioning⁸⁸ and abandonment,⁸⁹ gas flaring and venting⁹⁰ and measurement of petroleum.⁹¹ In practice, this means that industry stakeholders must continue to comply with many of the same requirements and standards that were previously enforced by the DPR. This continuity provides stability and predictability for investors and operators, allowing seamless navigation of the industry. The several noticeable areas and responsibilities where DPR influence, Guidelines and Regulations still endures, include but not limited to the under-listed as follows:

a) *Licensing and Permits*

DPR's has the role to issuing leases,⁹² licenses⁹³ and permits⁹⁴ for the Upstream, Midstream and Downstream oil and gas operations in the industry.⁹⁵ This important role has been taken over by NUPRC and NMDPRA which replaced DPR. However, the processes and requirements for

⁸⁶ Nigerian Upstream Petroleum Commercial Regulations 2025; Nigerian Upstream Petroleum Safety Regulations 2024; the Acreage Management and Petroleum (Drilling and Production) Regulations; Nigerian Upstream Petroleum Environmental Regulations 2022; Nigerian Upstream Petroleum Environmental Remediation Regulations 2025; Gas Flaring, Venting and Methane Emission (Prevention of Waste and Pollution) Regulations 2023; Nigerian Upstream Petroleum (Assignment of Interest) Regulations 2024; Production Curtailment and Domestic Oil Supply Obligation Regulations 2023; frontier Basins Exploration Administration Regulations 2023; Significant Crude Oil and Gas Discovery Regulations 2023; Nigerian Upstream Petroleum Unitisation Regulations 2023; Nigerian Upstream Petroleum Host Communities Development Regulations (NUPHCDR) 2022; Petroleum Licensing Round Regulations 2022; Petroleum Royalty Regulations 2022; Petroleum Conversion and Renewal Regulations 2022, etc

⁸⁷ Guideline for the Release of Staff in Nigeria Oil and Gas Industry based of Regulation 15A made under the power of the Minister of Petroleum Resources pursuant to section 9 of the Petroleum Act 1969 and section 3 of the Petroleum Industry Act 2021. This Guideline generated two contradictory decisions in two cases before court of coordinate jurisdiction between 2021 and 2022; Design, Construction, and Operation of Oil and Gas Production Facilities 2023; Guidelines for Flare Gas Measurement, Data Management & Reporting Obligations 2018; Guidelines for the Implementation of Risk-Based Inspection in the Nigerian Oil and Gas Industry 2020; Safety Case Guidelines for Oil and Gas Facilities and Guidelines for Work at Height and Confined Space Entry 2020.

⁸⁸ Reg. 3 (1), (2) and (3) of the Nigerian Upstream Decommissioning and Abandonment Regulations 2023 made pursuant to sections 232 and 233 of the PIA 2021.

⁸⁹ Ibid.

⁹⁰ Regs. 2, 12 and 20 of the Gas Flaring and Venting (Prevention of Waste and Pollution) Regulation 2022.

⁹¹ Nigerian Upstream Petroleum Measurement Regulations 2023.

⁹² Section 70, 76 and 81 of the PIA 2021.

⁹³ Sections 71 and 72 of the PIA 2021.

⁹⁴ Section 114 of the PIA 2021.

⁹⁵ Chapter 2, Part II, Sections 68 to 110 covers Upstream oil and gas operations, while Chapter 2, Parts III, IV and V, sections 111 to 208 covers Midstream and Downstream oil and operations.

obtaining these licenses and permits remain ceaselessly and largely influenced by DPR's guidelines and Regulations.

b) Regulatory Compliance

DPR's guidelines and regulations continue to shape the compliance of the Nigerian oil and gas industry's regulatory framework. The Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) have adopted and incorporated many of DPR's guidelines and regulations into the new regulatory frameworks, and these Regulations cover various aspects of the industry, including safety,⁹⁶ environmental protection,⁹⁷ and licensing requirements and guidelines.⁹⁸

c) Industry Oversight

DPR's role in monitoring and enforcing compliance with industry regulations has been taken over by NUPRC and NMDPRA. These agencies continue to ensure that oil and gas operators comply with industry standards,⁹⁹ safety protocols,¹⁰⁰ and environmental regulations.¹⁰¹ The supervision, monitoring and enforcement of compliance with industry regulations in the oil and gas operations to ensure compliance with industry standards and regulations is till part of the functions of the agency that now run the functions of DPR.

d) Environmental and Safety Regulations

DPR's emphasis on environmental protection and safety standards continues to be a priority in the industry. NUPRC and NMDPRA enforce stringent environmental regulations and safety

⁹⁶ Regs. 1 and 2 of the Nigerian Upstream Petroleum Safety Regulations 2022 made pursuant to section 3(1)(a) of the PIA 2021; Guidelines and Procedure for Travel to Offshore Swamp Location and Obtainment of Offshore Safety Permit, 2024; Guidelines and Procedure for Construction, Operation and Maintenance of Pipelines 2021; Guidelines for the Establishment and Operation of Safety and Emergency Training 2020; Safety Case Guidelines for Oil and Gas Facilities 2020; Guidelines and Procedure for Lifting Equipment and Lifting Operations 2020; Guidelines for Work at Height and Confined Space Entry 2020; Requirements for the maintenance and Inspection Flexible Pipes, SCR and Mooring Chain Systems 2012, Guidelines for the Implementation of Risk based Inspection in the Nigerian Oil and Gas Industry 2020; Guidelines for Compliance with the Technical Safety Control (TSC) Requirements 2020.

⁹⁷ Regs. 2, 4, 6, 7 and 8 of the Nigerian Upstream Petroleum Environmental Regulations 2022.

⁹⁸ Guidelines For the Design, Construction and Operation of Oil and Gas Production Facilities 2023; Guidelines and Procedures for Obtaining Ministers Consent to the Assignment of Interest in Oil and Gas Assets 2021; Guidelines of Integrated Upstream and Midstream Petroleum Operations 2023; Guidelines for the Award and Operations of Marginal Fields in Nigeria 2020; Oil Block Allocation to Companies (Back-in Rights) Regulations 2019; Guidelines for the Operationalisation of Domestic Crude Oil Supply Obligations 2024; Approved Framework for Seamless Operationalisation of Domestic Crude Oil Supply Obligation 2024; Guidelines for the Operationalisation of Advanced Cargo Declaration Regularization 2025; Procedure Guide for the Determination of the Quantity and Quality of Petroleum and Petroleum Products in Nigeria 2019; Implementation Guidelines for the Oil and Gas Company (Tax Incentives, Exemption, Remission) Order 2024; Guideline for the Release of Staff in the Nigerian Oil and Gas Industry 2019; Guidelines and Requirements for the Application of Oil and Gas Industry Service Permit (OGISP) 2024; Notice of Tax Incentive on Deep Offshore Oil and Gas Production 2024; Value Added Tax (Modification) Order 2024; Guidelines and Procedure for Construction, Operation and Maintenance of Pipelines 2021; Guidelines for the Establishment and Operation of Safety and Emergency Training 2020; Safety Case Guidelines for Oil and Gas Facilities 2020; Guidelines and Procedure for Lifting Equipment and Lifting Operations 2020; Guidelines for Work at Height and Confined Space Entry 2020; Requirements for the maintenance and Inspection Flexible Pipes, SCR and Mooring Chain Systems 2012, Guidelines for the Implementation of Risk based Inspection in the Nigerian Oil and Gas Industry 2020; Guidelines for Compliance with the Technical Safety Control (TSC) Requirements 2020.

⁹⁹ Ibid, n 98.

¹⁰⁰ Ibid.

¹⁰¹ Ibid, n 98.

standards to minimize the impact of oil and gas activities on the environment and local communities. DPR ensures that safety and environmental Standards are enforced in the Nigerian oil and gas industry to guarantee an efficient, safe and environmentally responsibly operations.

e) Capacity Building

DPR's legacy in capacity building and training for industry stakeholders continues to influence the industry. NUPRC, for example, provides training and capacity-building programs for local content development and industry stakeholders.¹⁰² DPR's initiatives in capacity building and training for industry stakeholders have contributed to the development of local expertise in the oil and gas sector.

6. DPR's Enduring Guidelines and Regulations and the Challenges of the New Regulators

6.1 Enduring Guidelines and Regulations of DPR

The NUPRC and NMDPRA have adopted or incorporated many of the DPR's guidelines and regulations into the new regulatory framework. This continuity provides stability and predictability for industry stakeholders, allowing them to navigate the industry with greater ease. There are several specific guidelines and regulations that the DPR developed and are still in use today.¹⁰³ It is also worthy to note that the various other list of Guidelines and Regulations renamed NUPRC Guideline and Regulations were all evolved and established by the DPR.

6.2 Challenges of the Emerging Regulators

The emerging regulators that replaced the Department of Petroleum Resources (DPR) in Nigeria's oil and gas industry are fraught with several challenges, which includes but not limited to:

a) Weak regulatory capacity and regulatory Overlaps

Conflicting directives and overlapping regulatory responsibilities led to uncertainty in the industry. The regulatory agencies lack the capacity to effectively enforce new policies, leading to inconsistent policy implementation, lack of transparency, and accountability.¹⁰⁴

b) Bureaucratic inefficiencies, corruption and rent-seeking

The institutions are characteristically slow in decision-making and inefficient in handling administrative issues which have constituted a clog in the wheel of effective and efficient regulation of the industry.¹⁰⁵ This heightened by the puffiness of corrupt practices and rent-seeking behaviour which undermines the government's reform efforts and discourage investment.

¹⁰² NUPRC is actively implementing the Host Community Trust over 103 Trusts incorporated to ensure sustainable community development. See sections 232, 234 and 235 of the PIA 2021; A.C. Odubuasi, 'Capacity Building for Inclusive Sustainable Development in Business: How Well Has Nigerian Oil and Gas fared Under President Tinubu', 17(1) *Journal of Emerging Trends in Economics and Management Sciences (JETMES)*, 25-32

¹⁰³ Guidelines for the Design, Construction, and Operation of Oil and Gas Production Facilities 2023; Guidelines for Flare Gas Measurement, Data Management & Reporting Obligations 2018; Guidelines for the Implementation of Risk-Based inspection in the Nigerian Oil and Gas Industry 2020; Safety Case Guidelines for Oil and Gas Facilities and Guidelines for Work at Height and Confined Space Entry 2020; Guidelines for the Release of Staff in the Nigerian Oil and Gas Industry 2019.

¹⁰⁴ S.C. Dike, 'Nigerian Petroleum Industry, International Oil Companies and Human Rights Concerns: Need for Operational Due Diligence', (2017) 1(1) *African Journal of International Energy and Environmental Law*, 32-35

¹⁰⁵ D. M. Ogbeide, 'Corruption in the Oil and Gas Industry: Implication for Economic Growth', (2019) 5(5) *International Journal of Sociology and Anthropology Research*, 1-14

Corrupt practices and rent-seeking behavior undermined the DPR's efforts to regulate the industry.¹⁰⁶

c) Inconsistent policies and implementation

The DPR faced challenges in implementing policies consistently, leading to confusion and uncertainty in the industry. Frequent changes in policies and regulations create uncertainty and make it difficult for investors to navigate the industry.

d) Economic Instability, Infrastructure Challenge, Inadequate Funding and Under-staffing

The DPR is faced with funding challenges, which impacts its effectiveness in regulating the industry coupled with the unstable macroeconomic environment that affects interest of investors to the industry.¹⁰⁷ The Inadequacy of industry infrastructural facilities, such as pipelines and storage facilities, hampers the efficient operation of the industry. The DPR struggle with under-staffing, making it difficult to effectively oversee the sprawling industry.¹⁰⁸

e) Environmental safety, social and security issues

The industry's impact on the environment and local communities remains a significant challenge, with issues like gas flaring and oil spills still prevalent.¹⁰⁹ The DPR prioritized safety and security in the industry, working to prevent accidents and protect personnel and assets. Pipeline vandalism and oil theft are significant security challenges that affect the industry's operations and revenue.¹¹⁰

7. Conclusion

While the DPR may be gone, its guidelines and regulations continue to shape the Nigerian oil and gas industry. The NUPRC and NMDPRA have assumed the regulatory responsibilities previously handled by the DPR, and industry stakeholders must adapt to the new framework while continuing to comply with existing regulations. As the industry continues to evolve, it is essential to ensure that the regulatory framework remains effective, efficient, and aligned with international best practices. The DPR's guidelines and regulations continue to play a significant role in shaping the Nigerian oil and gas industry's regulatory framework. While the PIA introduces significant changes, the DPR's legacy endures, influencing the industry's operations, compliance requirements, and regulatory practices.

To sustain the above, it is recommended that the industry stakeholders should familiarize themselves with the new regulatory framework and the continued applicability of DPR guidelines and regulations to ensure seamless compliance of industrial standards, guidelines, regulations and directives. Also, the NUPRC and NMDPRA should provide clear guidance on the application of DPR guidelines and regulations in the new regulatory framework, succinctly evidencing the

¹⁰⁶ Ibid.

¹⁰⁷ S.C. Dike, Okeahialam C.U, and Ibanichuka Gabrial, 'NNPC and the Role of DPR in the Effective Regulation and Development of Petroleum in Nigeria', (2024) 1(1) *AEJR Journal of Multidisciplinary and Current Studies*, 13-32

¹⁰⁸ Ibid.

¹⁰⁹ An average of 240,000 barrels of crude oil is spilled in the Niger Delta every year due to unknown causes 31.85%, third party activity 30.74% and Mechanical failure 17.04%. See B. Ordinioha and S. Barisibe, 'Human Health Implication of Crude Oil Spills in the Niger Delta Nigeria: An Interpretation of Published Studies', 54(1) *Nigerian Medical Journal* 10-16

¹¹⁰ G.I. Ikonne, 'Effects of Crude Oil Theft on Internal Security of Delta State', (2025) 9(1) *Wakari International Studies Journal*, 20-34.

existing DPR regulations, standards and Regulations that survived the repeal by PIA 2021. More so, the regulatory framework should be regularly reviewed and updated to ensure that it remains effective, up-to-date and aligned with international industry best practices. Furthermore, industry stakeholders should engage with the NUPRC and NMDPRA regularly and routinely to provide feedback on the regulatory framework and identify areas for improvement for a more vibrant, efficient and productive industry. Further still, the stakeholder and the enforcement officers of the DPR guidelines and Regulations should collaborate to sustain the enduring legacies already laid down by the defunct DPR. Finally, our courts should harmonise their verdicts for business stability and predictability of results of cause of action in the event of conflict. It is rather embarrassing that the same court could give out conflicting decision on similar issues within a period of less than one year despite existing precedent. This is necessary so that the industry which is highly regulated will enjoy some degree of certainty.¹¹¹

¹¹¹ In *Shell Petroleum Development Company of Nigeria v Minister of Petroleum Resources and 2 Ors* (Supra) and *Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) & 3 Ors v Chevron Nigeria Limited* (“PENGASSAN case”) (Supra).