



## **REGULATORY IMPACT STATEMENT**

### **THE DRAFT PETROLEUM (UPSTREAM PETROLEUM MANAGEMENT AND ADMINISTRATION) REGULATIONS**

APRIL 2025

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## **1 INTRODUCTION**

The Petroleum Act, Cap 308 ('the Act'), provides a framework for contracting, exploration, development and production of petroleum. To operationalize the Act, the Cabinet Secretary in charge of Petroleum proposes to make *Petroleum (Upstream Petroleum Management and Administration) Regulations (Proposed Regulations)* for the management and administration of upstream petroleum. The Regulations are made pursuant to Section 126 (1) of the Act which empowers the Cabinet Secretary to make regulations for the better carrying into effect of the provisions of the Act.

### **Regulatory Impact Statement**

Section 6 of the Statutory Instruments Act (Cap. 2A), (SIA) provides that if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation making authority shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument.

Pursuant to the provisions of Sections 6 and 7 of SIA the Energy and Petroleum Regulatory Authority (Authority) being the regulation making authority prepared this Regulatory Impact Statement for the proposed regulations

## **2 STATEMENT OF OBJECTIVES**

### **2.1 General Objective**

The overall regulatory objective of the proposed Regulation is to provide a framework for the effective management and administration of upstream petroleum.

### **2.2 Specific Objective**

The specific objectives are to:

- i. Set out detailed procedures to guide upstream petroleum activities, ensuring consistency, transparency, and legal clarity;
- ii. Enhance governance, transparency, and accountability in the allocation, transfer, and termination of petroleum rights;
- iii. Streamline roles and responsibilities of the relevant institutions, including the Cabinet Secretary, the National Upstream Petroleum Advisory Committee, and the Authority;
- iv. Provide for a framework for the award of petroleum agreements and non-exclusive exploration permits through competitive bidding rounds, invitations for applications and direct negotiations;
- v. Establish clear guidelines for the constitution and management of petroleum blocks;

- vi. Regulate fiscal obligations and compliance, so as to ensure fair and predictable economic returns to the State while looking to maintain investor confidence;
- vii. Provide for the development and review of national upstream petroleum policies and strategies;
- viii. Foster sustainable and environmentally responsible upstream petroleum activities; and
- ix. Provide for administration and management of the Training Fund established under Section 52 (2) of the Act.

### **3 STATEMENT ON THE EFFECTS OF THE PROPOSED REGULATIONS**

The Upstream Sector needs a comprehensive and updated regulatory framework specifically tailored for upstream petroleum operations. The following existing Regulations are outdated and insufficient to address best petroleum industry practices in upstream petroleum management.

- i. The Petroleum (Exploration and Production) Regulations, 1984 (L.N. 193/1984); and
- ii. The Petroleum (Exploration and Production) (Training Fund) Regulations, 2006 (L.N. 132/2006).

This has led to inefficiencies in contract administration, data management, regulatory uncertainty for investors, creating gaps in enforcement and oversight mechanisms and potential environmental, health, and safety risks due to lack of an operationalizing framework.

The proposed regulation therefore, seeks to provide a framework for the effective management and administration of upstream petroleum.

Further, the proposed Regulations seek to align the administration and management of the Training Fund with the principles of public finance management as articulated under Chapter 12 of the Constitution of Kenya, 2010.

### **4 ASSESSMENT OF OTHER PRACTICABLE MEANS OF ACHIEVING THE OBJECTIVES OF THE PROPOSED REGULATIONS**

#### **4.1 Option A: Maintaining Status Quo**

Status quo would mean retention of the various pieces of regulations guiding the management of upstream petroleum.

Accordingly, the *status quo* is **NOT A DESIRABLE OPTION**, as it fails to address existing regulatory gaps and may hinder sectoral growth.

#### 4.2 Option B: Use of Frameworks Such as Guidelines

While a quicker and an easy option, it lacks the legal force needed for enforcement.

#### 4.3 Option C: Develop Petroleum (Upstream Petroleum Management and Administration) Regulations, under the Act

This option was chosen for its ability to provide a binding and enforceable regulatory framework.

### 5 ASSESSMENT OF THE COSTS AND BENEFITS OF THE PROPOSED REGULATIONS

The proposed Regulations are expected to have economic, social and environmental impacts as illustrated below:

#### a) Economic Impact

The improved regulatory clarity through the Proposed Regulations will attract investment, boost exploration, and enhance government revenue through the payment of royalties and taxes.

Impact/ Benefit	Remarks
1. Attracting investment	<ul style="list-style-type: none"> <li>A well-defined and stable regulatory framework can attract foreign and domestic investment in the oil and gas sector.</li> </ul>
2. Energy security	<ul style="list-style-type: none"> <li>Domestic production of oil and gas can reduce dependence on imported energy sources, enhancing energy security.</li> </ul>
3. Revenue from petroleum resources	<ul style="list-style-type: none"> <li>Revenue from licence fees, taxes, royalties and profit petroleum generating income to the government.</li> </ul>
4. Upstream petroleum	<ul style="list-style-type: none"> <li>Data-driven decision-making and investments.</li> </ul>

Impact/ Benefit	Remarks
data as an asset	<ul style="list-style-type: none"> <li>Efficient petroleum data management, including monetization of data.</li> </ul>
5. Socio-economic growth	<ul style="list-style-type: none"> <li>Management and administration of Upstream Petroleum can spur socio-economic growth, including increased business opportunities, employment, and infrastructure development such as roads, water, and electricity.</li> <li>Improved Balance of trade leading to an increase in the country's GDP</li> </ul>

#### b) Social Impact

Better governance of natural resources can promote equitable benefit sharing and social development in host communities. The following social impacts are expected:

Impact/ Benefit	Remarks
1. Protection and promotion of community rights	<ul style="list-style-type: none"> <li>A well developed regulatory framework will help safeguard the rights of the local community</li> </ul>
2. Project legitimacy and acceptance	<ul style="list-style-type: none"> <li>Creation of a legal framework that will enhance legitimacy in its application</li> </ul>
3. Social inclusivity	<ul style="list-style-type: none"> <li>Creation of an environment that embraces diversity, promotes fairness, and ensures that all individuals, regardless of background, are treated with respect and have equal opportunities</li> </ul>
4. Transparency and accountability	<ul style="list-style-type: none"> <li>Helps ensure that the benefits of oil and gas revenues are shared fairly among all stakeholders, including the public,</li> </ul>

Impact/ Benefit	Remarks
	governments, and communitie
5. Improve livelihoods and educational opportunities and infrastructure development	<ul style="list-style-type: none"> <li>• Initiatives like providing training, creating job opportunities, investing in education, and developing essential infrastructure to support both the industry and the local communities</li> </ul>

**c) Environmental Impact**

The proposed Regulations will provide a legal basis for stronger enforcement of environmental standards, hence reducing ecological harm during exploration and production.

**6 ANY OTHER MATTERS SPECIFIED BY THE GUIDELINES**

According to Regulation 3 of the proposed Regulations, all matters prescribed for in the Regulations apply to the management and administration of upstream petroleum in Kenya.

**7 DRAFT COPY OF THE PROPOSED STATUTORY RULE**

The *proposed regulations* are annexed herein.