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DECOMMISSIONING AT THE FRONT OF THE FIELD LIFE CYCLE

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Nigerian Upstream Decommissioning and Abandonment Regulations 2026

As Nigeria witnesses sustained divestments by international oil companies and a gradual transfer of mature producing assets to indigenous operators, the question of who ultimately bears the cost of retiring a petroleum asset has moved from the margins of transaction documentation to the centre of it. The end of production on an oilfield is among the most significant environmental and financial events in the life of the asset, and until recently, it was also among the least regulated.

The Nigerian Upstream Petroleum Regulatory Commission ("NUPRC" or the "Commission") has issued the Nigeria Upstream Decommissioning and Abandonment Regulations 2026 (the "2026 Regulations"), made pursuant to sections 232 and 233 of the Petroleum Industry Act 2021 (the "PIA"). The 2026 Regulations revoke the Nigeria Upstream Decommissioning and Abandonment Regulations 2023 (the "2023 Regulations"), subject to savings provisions preserving prior regulatory actions and permits.

The central shift is easily missed in the detail. Under the previous regime, decommissioning was in practice an end-of-life concern: a plan to be filed, a fund to be built, and an obligation that crystallised when production ceased. The 2026 Regulations relocate decommissioning to the front of the asset life cycle. Planning and costing now sit alongside the Work Programme and the Field Development Plan, which is to say alongside the very approvals on which the project depends. Decommissioning has become a condition of development rather than a consequence of it.

This article examines the principal changes introduced by the 2026 Regulations and considers, in particular, what they mean for lenders and for the structuring of upstream financings.

Background

Once a field ceases to produce commercially viable quantities, the operator is expected to plug and abandon the wells, dismantle pipelines, flowlines and installations, and restore the environment to its pre-operational condition. Before the PIA, these expectations rested on the Petroleum (Drilling and Production) Regulations and on departmental guidance issued by the former Department of Petroleum Resources. They were real obligations, but they were not underpinned by a comprehensive statutory framework, and critically they were not funded.

The PIA changed that. It requires every upstream licensee or lessee to prepare a Decommissioning and Abandonment Plan (a "D&A Plan") and to make periodic contributions into a dedicated Decommissioning and Abandonment Fund (the "D&A Fund" or the "Fund"), so that money is demonstrably set aside before it is needed. The 2023 Regulations operationalised these provisions, prescribing the procedures for preparing D&A Plans, obtaining approvals, implementing decommissioning programmes and administering the Fund.

Implementation exposed difficulties. Submission timelines did not align with the way projects are actually developed; the requirement that the Fund be held with the Central Bank of Nigeria proved impractical for private sector operators; the well suspension regime was inflexible; and the treatment of decommissioning liabilities on a transfer of interest was insufficiently clear at precisely the moment when divestments were accelerating. The 2026 Regulations respond to each of these.

The scale of the exposure is not trivial. The Commission disclosed in September 2025 that it had approved 94 D&A Plans since April 2023, representing aggregate liabilities of US$4.424 billion arising from all Field Development Plans submitted in that period, to be remitted progressively over the production life of the respective fields into designated escrow accounts.[1] Separately, in the context of the recent divestment approvals, the Commission reported that over US$400 million in pre-sale decommissioning and abandonment liabilities had been secured through letters of credit and escrow accounts.[2] In December 2025 an ad hoc committee of the House of Representatives criticised both the Commission and the Nigerian Midstream and Downstream Petroleum Regulatory Authority over compliance with the decommissioning provisions of the PIA, its inquiry directed at operators' D&A Plans, the adequacy of their financial provisioning including the establishment of escrow accounts, and the robustness of regulatory oversight — against an estimated funding gap of some US$20 billion for the dismantling of ageing infrastructure.[3] The 2026 Regulations arrive against that backdrop.

1. Remarks of the Chief Executive of the Nigerian Upstream Petroleum Regulatory Commission, Engr. Gbenga Komolafe (represented by Efemona Bassey, Deputy Director, Human Resources, Corporate Services and Administration), at the Nigerian Extractive Industries Transparency Initiative Companies Forum, Lagos, 10 September 2025; NUPRC statement issued by Eniola Akinkuotu, Head of Media and Strategic Communications. Reported in Premium Times, "NUPRC secures over $400 million for decommissioning liabilities — Official," 10 September 2025; Channels Television, 11 September 2025; THISDAY, 11 September 2025.
2. **Ibid. The Commission stated: over US$400 million in pre-sale decommissioning and abandonment liabilities have been secured through Letters of Credit and escrow accounts, together with environmental remediation** commitments worth over US$9.2 million pledged pending formal gazetting of the ERF Regulations.
3. House of Representatives Ad hoc Committee on Decommissioning and Abandonment, resumed investigative hearing, National Assembly, Abuja; reported in Premium Times, "Reps fault NUPRC, NMDPRA over non-compliance with PIA decommissioning rules," 8 December 2025.

D&A Plans: submission aligned to the project life cycle

Under the 2023 Regulations, every licensee or lessee was required to submit a D&A plan within one year of its commencement, with new entrants submitting as part of the Field Development Plan. The approach was essentially uniform and, for assets at different stages of maturity, essentially retrospective.

The 2026 Regulations adopt a licence-specific approach;[5]

a. A holder of a Petroleum Prospecting Licence must submit a D&A Plan together with its application for approval of the Work Programme.
b. A holder of a Petroleum Mining Lease must submit a D&A Plan together with its application for approval of the Field Development Plan.
c. A licensee or lessee with an existing D&A Plan must submit an updated plan within six months of the commencement of the 2026 Regulations.

This is more than a procedural adjustment. The approved D&A Plan is the document from which decommissioning costs are estimated, and those estimates in turn determine the annual contributions payable into the D&A Fund. By requiring the plan at the Work Programme and Field Development Plan stages, the Commission has made the decommissioning cost estimate a component of the development approval itself — and has given itself the opportunity to test the operator's long-term liability assumptions before the project proceeds.

5. Regulation 3(5) Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2026

The D & A Fund: domiciliation, timing and protection

Where the Fund is held

The 2023 Regulations required the Fund to be maintained with the Central Bank of Nigeria.[6] International oil companies operating under joint venture or production sharing arrangements with the Nigerian National Petroleum Company Limited were subject to an escalating schedule: a minimum of 15% of the pro-rata annual contribution into the CBN-held account, rising to a minimum of 25% after three years, and the full contribution from the fifth year onwards.

The 2026 Regulations replace the custodial model with a ratings-based one. The Fund is to be held in an escrow account with a qualifying financial institution, whether Nigerian or foreign. A Nigerian institution must carry a national scale rating of A+ or its equivalent from Standard & Poor's, Fitch Ratings Inc., Moody's Investors Service Inc., Agusto & Co. or GCR Ratings. A foreign institution must carry a minimum credit rating of A+ or its equivalent from Standard & Poor's, Fitch Ratings Inc. or Moody's Investors Service Inc.

The 2026 Regulations adopt a more flexible approach by allowing the D&A Fund to be maintained in any qualifying financial institution, whether in Nigeria or abroad, provided such institution meets prescribed credit rating requirement of A+. However, international oil companies are required to maintain at least 15% of their annual contributions in a qualifying Nigerian financial institution.[7]

This shift reflects a move away from a rigid custodial model to a risk-based framework focused on the financial strength of the institution holding the fund. It also addresses concerns regarding the practicality of maintaining private sector D&A funds solely with the CBN.

6. Regulation 19(1) Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2023
7. Regulation 19(5) Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2026

Protection of the Fund

The 2026 Regulations reinforce the ring-fenced character of the Fund. It is dedicated exclusively for decommissioning and post-abandonment activities and is insulated from any encumbrance, attachment, or claim by creditors. It cannot be pledged as collateral or used to satisfy unrelated obligations of the operator.

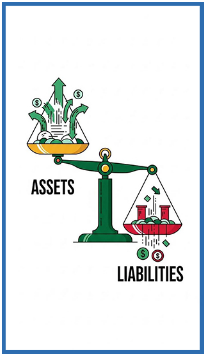
Equally important, the Regulations make clear that the Fund does not represent a cap on liability. Where the amount standing to the credit of the Fund proves insufficient to meet actual decommissioning costs, the operator remains responsible for funding the shortfall.[8] This reinforces the "polluter pays" principle embodied in the PIA and ensures that decommissioning liabilities are not transferred to the state or host communities.

Conversely, where a surplus remains following the completion of decommissioning and post-abandonment obligations, such surplus is treated as income for production sharing or tax purposes before the net balance is returned to the operator. This approach prevents operators from receiving a windfall where contributions to the D&A Fund may have previously enjoyed cost recovery or tax advantages.

Decommissioning liabilities on assignment

The 2026 Regulations also address situations where all or part of an interest in a license or lease is assigned, novated, or otherwise transferred.[9] The proportionate legal and equitable interests, rights and obligations of the licensee or lessee in respect of decommissioning and abandonment are deemed to attach to the property transferred to the transferee. The provision underscores the principle that decommissioning liabilities do not simply disappear upon the transfer of petroleum assets.

This provision assumes particular significance against the backdrop of recent divestments by international oil companies to indigenous operators. It seeks to ensure that decommissioning obligations remain attached to the asset and that appropriate funding arrangements are maintained notwithstanding changes in ownership.



8. Regulation 21(5) Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2026
9. Regulation 23 Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2026

It does not, however, answer the harder question. Where a mature, heavily depleted asset passes from a well-capitalised international operator to an indigenous acquirer, the liability attaches to a balance sheet materially less able to bear it. The drafting secures the obligation; it does not secure the money. Whether the Commission will use its approval powers over assignments to test the transferee's financial capacity, and what it will require by way of parent company guarantee, letter of credit or accelerated funding where that capacity is doubtful, is the question that will determine whether this provision works in practice.

Shut-in and suspended wells

The 2023 Regulations permitted the Commission to approve the suspension of a well for an initial period of three years extendable on application made not later than three months before expiry of that period.

The 2026 Regulations draw a distinction the earlier framework did not. A well shut in for operational reasons may not remain shut in for more than one year without the express approval of the Commission. A suspended well may remain suspended for a maximum of four years, extendable on satisfactory justification and in accordance with the Commission's applicable guidelines. A licensee intending to suspend a well must apply to the Commission stating the justification, and the suspension must be effected so as to permit safe re-entry, allow pressure control equipment to be deployed without compromising existing well barriers, and preserve the integrity of the well for eventual abandonment.

The net effect is greater flexibility for genuine suspensions coupled with tighter oversight of wells simply left shut in — a sensible response to the accumulation of idle wells across mature acreage.

The enforcement mechanism is retained from the 2023 Regulations and deserves emphasis. Where the licensee fails to apply for or obtain an extension, it must abandon the well within the prescribed period; and if it does not, the Commission may access the D&A Fund and appoint a third party to carry out the abandonment. The Fund, in other words, is not merely unavailable to the operator's creditors. It is available to the regulator.

Implications for Project Financing and Lenders

This is where the Regulations bite hardest for anyone structuring an upstream financing, and the analysis runs well beyond the observation that the Fund cannot be taken as security.

The Fund is a cash leakage, not a reserve

Annual contributions to the D&A Fund are a mandatory, non-discretionary application of project cash flow, ring-fenced beyond the reach of the security package and incapable of being applied to debt service. For modelling purposes, they should be treated in the same way as a tax or royalty payment: deducted before cash available for debt service is struck, not shown as a restricted balance capable of being unwound. Where a borrower has been under-contributing, the modelled position and the regulatory position will diverge, and the correction falls on the lender's coverage ratios.

The Fund can be drawn down by the regulator

Due to the Commission being able to access the Fund to abandon a well the operator has failed to abandon, a compliance failure on well suspension converts directly into a depletion of the very reserve that stands behind the decommissioning liability. A lender that has satisfied itself as to the balance in the escrow account at financial close has not thereby secured that position. Information covenants should extend to suspension applications, extension refusals and any Commission notice under the abandonment provisions, not merely to the account balance.

Assignment and enforcement

Since decommissioning obligations are deemed to attach to the transferred property, any enforcement of security over an upstream interest carries the liability with it. A lender enforcing a share pledge or an assignment of interest acquires, in substance, the decommissioning obligation attaching to the asset. That should inform the enforcement strategy, the appetite for taking direct interests as opposed to share security, and the diligence undertaken at the outset on the adequacy of the approved cost estimate. It also sits alongside the Commission's consent requirements for assignments of interest, which remain a gating item on any enforcement.

Documentary consequences

Facility agreements for upstream borrowers should, at minimum, contain:

• conditions precedent requiring evidence of the approved D&A Plan, the established escrow account and the qualifying status of the account bank;

• a representation and a repeating covenant as to compliance with the 2026 Regulations and the approved D&A Plan;

• an undertaking to make all contributions when due, with failure to do so an event of default rather than merely a breach of an information covenant;

• an obligation to notify any downgrade of the account bank below the prescribed threshold, and to complete the 90-day replacement process;

• an obligation to deliver each updated D&A Plan and revised cost estimate, given that the estimate drives the contribution and therefore the cash flow; and

• acknowledgment that the Fund forms no part of the security package and that its balance is not available on enforcement.

Handled properly, the framework is a benefit to lenders rather than a burden. A funded, ring-fenced and independently verifiable decommissioning reserve mitigates one of the larger unquantified tail risks in upstream lending. What it requires is that the risk be priced and monitored rather than assumed away.

Conclusion

The 2026 Regulations are a refinement rather than an overhaul. They retain the architecture of the PIA regime and adjust it where practice showed the 2023 framework to be unworkable: submission timelines that ignored how projects develop, a custodial requirement that ignored how banking works, and a suspension regime that made no distinction between a well awaiting workover and a well quietly abandoned in all but name.

What they do not resolve is the question underlying the whole exercise. Attaching a liability to an asset is straightforward; ensuring that whoever holds the asset can actually discharge it is not. With approved liabilities already exceeding US$4.4 billion against secured provisioning of a fraction of that figure, and with the National Assembly now taking an active interest in compliance, the effectiveness of this framework will turn less on the drafting than on the rigour with which cost estimates are tested, contributions are enforced, and transferee capacity is assessed at the point of divestment.

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