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Arrangement of Sections

Section :

PART XV—MISCELLANEOUS

PENSION REFORM ACT, 2014

ACT No. 4

AN ACT TO REPEAL THE PENSION REFORM ACT NO. 2, 2004 AND ENACT THE PENSION REFORM ACT, 2014 TO MAKE PROVISION FOR THE UNIFORM CONTRIBUTORY PENSION SCHEME FOR PUBLIC AND PRIVATE SECTORS IN NIGERIA ; AND FOR RELATED MATTERS

[1*st Day of July*, 2014] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I—OBJECTIVES AND APPLICATION

Objectives.

1. The objectives of this Act are to—

(*a*) establish a uniform set of rules, regulations and standards for the administration and payments of retirement benefits for the Public Service of the Federation, the Public Service of the Federal Capital Territory, the Public Service of the State Governments, the Public Service of the Local Government Councils and the Private Sector ;

(*b*) make provision for the smooth operations of the Contributory Pension Scheme ;

(*c*) ensure that every person who worked in either the Public Service of the Federation, Federal Capital Territory, States and Local Governments or the Private Sector receives his retirement benefits as and when due ; and

(*d*) assist improvident individuals by ensuring that they save in order to cater for their livelihood during old age.

Application.

2.—(1) The provisions of this Act shall apply to any employment in the Public Service of the Federation, the Public Service of the Federal Capital Territory, the Public Service of the States, the Public Service of the Local Governments and the Private Sector.

(2) In the case of the Private Sector, the Scheme shall apply to employees who are in the employment of an organization in which there are 15 or more employees.

(3) Notwithstanding the provisions of subsection (2) of this section, employees of organisations with less than three employees as well as self-employed persons shall be entitled to participate under the scheme in accordance with guidelines issued by the Commission.

PART II—ESTABLISHMENT OF A CONTRIBUTORY PENSION SCHEME

Establishment of Contributory Pension Scheme.

3.—(1) There is established for any employment in the Federal Republic of Nigeria, a Contributory Pension Scheme (in this Act referred to as "*the Scheme*") for payment of retirement benefits of employees to whom the Scheme applies under this Act.

(2) The Scheme established under subsection (1) of this section shall apply to all employees in the Public Service of the Federation, the Federal Capital Territory, States, Local Governments and the Private Sector subject to the provisions of Section 5 of this Act.

Rate of contribution to the Scheme.

4.—(1) The contribution for any employee to which this Act applies shall be made in the following rates relating to his monthly emoluments :

(*a*) a minimum of ten per cent by the employer ; and

(*b*) a minimum of eight per cent by the employee.

(2) The rates of contribution mentioned in subsection (1) of this section may, upon agreement between any employer and employee, be revised upwards, from time to time, and the Commission shall be notified of such revision.

(3) Any employee to whom this Act applies may, in addition to the total contributions being made by him and his employer, make voluntary contributions to his retirement savings account.

(4) Notwithstanding any of the provisions of this Act, an employer may agree—

(*a*) on the payment of additional benefits to the employee upon retirement ; or

(*b*) elect to bear the full responsibility of the Scheme provided that in such a case, the employer's contribution shall not be less than 20 percent of the monthly emoluments of the employee.

(5) In addition to the rates specified in sub-section (1) of this section, every employer shall maintain a Group Life Insurance Policy in favour of each employee for a minimum of three times the annual total emolument of the employee and premium shall be paid not later than the date of commencement of the cover.

(6) Where the employer failed, refused or omitted to make payment as and when due, the employer shall make arrangement to effect the payment of claims arising from the death of any staff in its employment during such period.

(7) Subject to such guidelines as may be issued, from time to time by the Commission, the categories of persons covered under section 2(3) of this Act or persons exempted under Section 5 of this Act shall be entitled to make voluntary contributions under the Scheme.

Exemption from the Scheme.

5.—(1) The categories of persons exempted from the Contributory Pension Scheme are —

(*a*) the categories of persons mentioned in Section 291 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) including members of the Armed Forces, the intelligence and secret services of the Federation ;

(*b*) any employee who is entitled to retirement benefits under any pension scheme existing before the 25th day of June, 2004, being the commencement of the Pension Reform Act, 2004, but as at that date had 3 or less years to retire.

Second Schedule.

(2) Any person who falls within the provisions of subsection (1) of this section shall continue to derive benefit under existing pension scheme in accordance with the formula provided for in the Second Schedule to this Act or under the provisions of enabling laws.

(3) Nothing in this Act shall preclude the right of any person mentioned in subsections (1) and (2) of this Section to be paid his pension as and when due.

(4) Where an Officer exempted under Section 5(1)(*b*) of this Section dies in service or in the course of duty, the Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate shall cause to be paid, *en bloc*, his next-of-kin or designated survivors a gratuity and pension to which the Officer would have been entitled at the date of his death calculated in accordance with Section 46 of this Act.

(5) Where an Officer exempted under this section is retired by his employer as a result of mental or physical incapacity, the Officer shall be paid gratuity and pension in accordance with Section 46 of this Act.

(6) For the purpose of sub-section (5) of this section, a properly constituted medical board shall advise the employer on the Officer's state of incapacity.

Supervision of Retirement Benefits of Employees exempted from the Scheme.

6.—(1) The administration of the retirement benefits of the categories of employees exempted from the Scheme under Section 5(1)(*b*) of this Act shall be subject to the supervision and regulation of the Commission.

(2) In the case of professors covered by the Universities (Miscellaneous Provisions) (Amendment) Act, 2012 and category of Political Appointees entitled, by virtue of their terms and conditions of employment, to retire with full benefits, the Commission shall issue guidelines to regulate the administration of their retirement benefits provided that any shortfall shall be funded from budgetary allocations by the employer.

(3) The Accountant-General of the Federation and the FCT Treasury, as the case may be, subject to the framework developed jointly with the Commission, shall make payments of retirement benefits directly into individual bank accounts of retired persons covered under Section 5 (1)(*b*) of this Act and details of such payment shall be submitted to the Commission and the Pension Transitional Arrangements Directorate of the Federation and Federal Capital Territory established under Sections 42 and 44 of this Act respectively.

PART III—RETIREMENT BENEFITS

Retirement Benefits.

7.—(1) A holder of a retirement savings account shall, upon retirement or attaining the age of 50 years, whichever is later, utilize the amount credited to his retirement savings account for the following benefits :

(*a*) withdrawal of a lump sum from the total amount credited to his retirement savings account provided that the amount left after the lump sum withdrawal shall be sufficient to procure a programmed fund withdrawals or annuity for life in accordance with extant guidelines issued by the Commission, from time to time ;

(*b*) programmed monthly or quarterly withdrawals calculated on the basis of an expected life span ;

(*c*) annuity for life purchased from a Life Insurance Company licensed by the National Insurance Commission with monthly or quarterly payments in line with guidelines jointly issued by the Commission and National Insurance Commission ;

(*d*) professors covered by the Universities (Miscellaneous Provisions (Amendment) Act, 2012 shall be according to the University Act ; or

(*e*) other categories of employees entitled, by virtue of their terms and conditions of employment, to retire with full retirement benefits shall still apply.

(2) Where an employee voluntarily retires, disengages or is disengaged from employment as provided for under section 16 (2) and (5) of this Act, the employee may with the approval of the Commission, withdraw an amount of money not exceeding 25 per cent of the total amount credited to his retirement savings account, provided that such withdrawals shall only be made after four months of such retirement or cessation of employment and the employee does not secure another employment.

(3) Where an employee has accessed the amount standing in his retirement savings account pursuant to sub-section (2) of this section, such employee shall subsequently access the balance in the retirement savings account in accordance with sub-section (1) of this Section.

Death of an Employee. Cap. 117 LFN. 2004.

8.—(1)Where an employee dies, his entitlements under the Life Insurance Policy maintained under Section 4 (5) of this Act shall be paid by an underwriter to the named beneficiary in line with Section 57 of the Insurance Act.

(2) Upon receipt of a valid Will admitted to Probate or a Letter of Administration confirming the beneficiaries under the estate of the deceased employee, the pension fund administrator shall, with the approval of the Commission, release the amount standing in the retirement savings account of the deceased to the personal representative of the deceased or to any other person as may be directed by a Court of competent jurisdiction, in accordance with the terms of the Will or the personal law of the deceased employee, as the case may be.

Missing Employees.

9. Where an employee is missing and is not found within a period of one year from the date he was declared missing, and a board of inquiry set up by the Commission makes a determination that having regards to available information and all relevant circumstances, it is reasonable to presume that the employee is dead, the provisions of Section 8 of this Act shall apply.

Exemption from Taxes.

10.—(1) Notwithstanding the provisions of any other Law, contributions to the Scheme under this Act shall form part of tax deductible expenses in the computation of tax payable by an employer or employee under the relevant income Tax Law.

(2) All interests, dividends, profits, investment and other income accruable to pension funds and assets under this Act shall not be taxable.

(3) Any amount payable as a retirement benefit under this Act shall not be taxable.

(4) Without prejudice to the provisions of sub-section (2) of this section, any income earned on any voluntary contribution made under Section 4 (3) of this Act shall be subject to tax at the point of withdrawal where the withdrawal is made before the end of 5 years from the date the voluntary contribution was made.

PART IV—RETIREMENT SAVINGS ACCOUNT

Retirement Savings Account and remittance of Contributions.

11.—(1) Every employee to whom this Act applies shall maintain an Account, (in this Act referred to as "*Retirement Savings Account*") in his name with any Pension Fund Administrator of his choice.

(2) The employee shall notify his employer of the Pension Fund Administrator chosen and the identity of the retirement savings account opened under subsection (1) of this section.

(3) The Employer shall —

(*a*) deduct at source the monthly contribution of the employee ; and

(*b*) not later than 7 working days from the day the employee is paid his salary, remit an amount comprising the employee's contribution under paragraph (*a*) of this subsection and the employer's contribution to the Pension Fund Custodian specified by the Pension Fund Administrator of the employee.

(4) Upon receipt of the contributions remitted under sub-section (3)(*b*) of this Section, the Pension Fund Custodian shall notify the Pension Fund Administrator who shall cause to be credited the retirement savings account of the employee for whom the employer had made the payment.

(5) Where an employee fails to open such Retirement Savings Account within a period of six months after assumption of duty, his employer shall, subject to guidelines issued by the Commission, request a Pension Fund Administrator to open a nominal retirement savings account for such employee for the remittance of his pension contributions.

(6) An employer who fails to deduct or remit the contributions within the time stipulated in subsection (3) (*b*) of this Section shall, in addition to making the remittance already due, be liable to a penalty to be stipulated by the Commission.

(7) The penalty referred to in sub-section (6) of this section shall not be less than 2 per cent of the total contribution that remains unpaid for each month or part of each month the default continues and the amount of the penalty shall be recoverable as a debt owed to the employee's retirement savings account, as the case may be.

(8) An employee shall not have access to his retirement savings account or have any dealing with the Pension Fund Custodian with respect to the retirement savings account except through the Pension Fund Administrator.

(9) The Commission shall determine the cost of recovery of unremitted contributions and the sources to defray the cost, which may include the amount recovered as penalty pursuant to sub-section (6) of this section.

Contributions of the Federal Government and Federal Capital Territory Administration.

12.—(1) The contributions of the Federal Government to the retirement benefits of employees of the Public Service of the Federation under Section 11(3) of this Act shall be a charge on the Consolidated Revenue Fund of the Federation.

(2) The contributions of the Federal Capital Territory Administration to the retirement benefits of employees of the Federal Capital Territory under section 11(3) of this Act shall be a charge on the Revenue Fund of the Federal Capital Territory.

(3) The Accountant-General of the Federation shall make the deductions of the contributions mentioned in sub-section (1) of this section.

(4) The Federal Capital Territory Treasury shall make the deductions of the contributions mentioned in sub-section (2) of this section.

Transfer of Account from one Pension Fund Administrator to another.

13. Subject to guidelines issued by the Commission, a holder of a retirement savings account maintained under this Act may not, more than once in a year, transfer his account from one Pension Fund Administrator to another.

Transfer from one employment to another.

14. Where an employee transfers his employment from one employer or organization to another, the same retirement savings account shall continue to be maintained by the employee or be transferred subject to Section 13 of this Act.

Transfer of entitlement from defined Benefits Scheme into the Scheme.

15.—(1) As from 25 June, 2004, being the commencement of the Pension Reform Act 2004, the accrued pension right to retirement benefits of any employee who is already under any pension scheme existing before the commencement of that Act and has over 3 years to retire shall —

(*a*) in the case of employees of the Public Service of the Federation where the scheme is unfunded, be recognized in the form of an amount acknowledged through the issuance of Federal Government Retirement Benefits Bonds by the Debt Management Office in favour of the employees and the bond issued under this subsection shall be redeemed