

NIGERIA SOCIAL INSURANCE TRUST FUND ACT

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CHAPTER 88

NIGERIAN SOCIAL INSURANCE TRUST FUND ACT

An Act to establish the Nigerian Social Insurance Trust Fund and a Management Board to administer the Fund; and for other matters connected therewith.

[1993 No. 73.]

[1st January, 1992]

[Commencement.]

PART I

Establishment and composition, etc., of the Nigeria Social Insurance Trust Fund and Management Board

1. Establishment of the Nigerian Social Insurance Trust Fund

There is hereby established a fund to be known as the Nigeria Social Insurance Trust Fund (in this Act referred to as "the Fund") into which shall be paid all contributions and other monies as may be required to be paid or contributed under this Act and which Fund shall be operated and managed as provided in this Act.

2. Establishment of the Nigerian Social Insurance Trust Fund Management Board

(1) There is hereby established for the management of the Fund, a body to be known as the Nigerian Social Insurance Trust Fund Management Board (in this Act referred to as "the Board") which shall, subject to this Act have general control of the Fund and investments of sums forming part of the Fund.

(2) The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Board shall for the purpose of the discharge of its functions under this Act have power-

(a) to acquire, hold and alienate property, real or personal; and

(b) to enter into any contract or other transactions.

3. Functions of the Board

(1) The Board shall be responsible for-

(a) the administration of the Fund and the investment of sums forming part of the Fund;

(b) the payment of the various benefits provided under this Act to persons entitled to the benefit; and

(c) the general administration of this Act and regulations made thereunder.

(2) The Board shall have power to carry out such activities as may appear to the Board to be incidental or conducive to the attainment of its objects under this Act.

4. Membership of the Board

(1) The Board shall consist of the following members, that is-

(a) the chairman who shall be appointed by the President, on the recommendation of the Minister for Labour;

(b) two persons each nominated by-

- (i) the Nigerian Employees Consultative Association; and
- (ii) the Nigeria Labour Congress;

(c) one representative each of-

- (i) the Federal Ministry of Employment, Labour and Productivity; and
- (ii) the Central Bank of Nigeria;

(d) the three Executive Directors appointed pursuant to section 7 of this Act; and

(e) the Managing Director.

(2) The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters contained therein.

[Schedule.]

5. Tenure of office

(1) The members of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years and no more.

(2) Subject to the provisions of this Act, a member of the Board appointed under section 4 (1) (b) and (e) of this Act, other than an *ex-officio* member, shall hold office for a term of three years from the date of his appointment and shall be eligible for reappointment for a further period of three years.

(3) The members of the Board shall be paid such remuneration and allowances as the Minister of Labour may, from time to time, determine.

(4) A member of the Board may resign his appointment by a notice in writing under his hand, addressed to the Minister.

6. Cessation of membership

A member of the Board shall cease to hold office if-

- (a) he becomes of unsound mind; or
- (b) he becomes bankrupt or makes a compromise with his creditors; or
- (c) he is convicted of a felony or of any offence involving dishonesty; or
- (d) he is guilty of serious misconduct in relation to his duties.

PART II

Management of the Fund and staff of the Board

7. Appointment of the Managing Director and Executive Directors

(1) There shall be appointed for the Board, a Managing Director and three Executive Directors who shall be appointed by the President, on the recommendation of the Minister.

(2) The Managing Director shall be the chief executive of the Board and shall, subject to the general control of the Board, be responsible for the day-to-day administration

of the affairs of the Board.

(3) The Managing Director and the Executive Director shall each hold office for a term of four years in the first instance and shall be eligible for re-appointment for one further term of three years and no more.

(4) The Minister shall, after consultation with the Nigeria Labour Congress and the Nigeria Employers Consultative Association make recommendations to the President on the appointment of the Managing Director or an Executive Director.

8. Removal from office of the Managing Director and Executive Director

Notwithstanding the provision of section 7 (3) of this Act, the Managing Director or an Executive Director of the Board may be removed from office by the President if any circumstances arise which would require the Managing Director or Executive Director to cease to hold office as a member of the Board under section 6 of this Act.

9. Appointment of secretary and other staff

(1) The Board shall cause to be appointed a person with relevant academic and professional qualification as secretary to the Board.

(2) The secretary shall, subject to the directions of the Board, arrange the business of the meetings of the Board, conduct the correspondence of the Board and perform such other functions as the Board or the Managing Director may, from time to time, direct.

(3) The Board may employ such other staff as may, in the opinion of the Board, be necessary to assist the Managing Director in carrying out the functions of the Board under this Act.

(4) The terms and conditions of service (including terms and conditions as to remuneration, allowances, pensions, gratuities and other benefits) of the persons employed by the Board shall be determined by the Board from time to time.

(5) The control of the employees (including their promotion and discipline) shall vest in the Board but may be delegated by the Board to the Managing Director or any of the Executive Directors subject to such conditions as the Board may specify.

PART III

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10. Coverage

(I) This Act shall apply in respect of every person who-

- (a) is employed by a company in
- (b) is employed by a partnership irrespective of the number of persons employed by the company or partnership; or
- (c) in any other case, where the number of persons employed is not less than five.

(2) All employers and employees to which this Act applies, shall be registered with the Board in such manner as may be prescribed by regulations made under this Act.

(3) The existence of a private pension scheme in respect of workers to whom this Act applies, shall not exempt an employer or employees referred to in subsection (I) of this section from the provisions of this Act.

11. Exemptions

The following persons are exempted from the provisions of this Act, that is-

(a) a person employed in the public service of the Federation or a State or local government who is entitled to the benefit of any scheme or pension on terms substantially similar to those prescribed by the Pensions Act; or

(b) a person who is entitled to diplomatic or equivalent status under the Diplomatic Privileges and Immunities Act; or

(c) a person not being a citizen of Nigeria who is employed in Nigeria for a period less than six years at a time, if the employee is liable to contribute to or is prospectively entitled to benefits from the social security scheme of any country other than Nigeria or any benefit scheme by virtue of his employment which would provide the employee with benefits substantially not less favourable than the like benefits to which he would have been entitled to under this Act;
or

(d) a minister of religion who is engaged in the propagation of his faith.

PART IV

Contributions

12. Categories of contributions

Subject to the provisions of this Act, an employee referred to in section 10 of this Act shall be required to make the following contributions to the Fund established by section I of this Act, that is-

(a) contributions of the first category, being contributions payable by or on behalf of the employees against the contingencies of retirement, pension, death, invalidity and emigration; or

(b) contributions of the second category, being contributions payable on behalf of the employee by the employer against the contingency of employment injury.

13. Contribution to be paid monthly: amount thereof

(1) Contributions of the various categories shall be paid on a monthly basis at the rate prescribed by regulations made under section 40 of this Act which shall be computed by reference to the wages of the employee concerned.

(2) The contributions payable in respect of each month shall fall due on the last day of the month concerned.

14. Penalty

(1) If any contribution is not paid within the time prescribed in section 13 of this Act, a sum equal to 5 *per centum* of the amount unpaid, shall be added for each month or part of the month after the date when payment should have been made and any amount added shall be recoverable as a debt owing to the Board by the employer.

(2) The Board may remit, wholly or partly, the penalty imposed under subsection (1) of this section.

15. Employer not to reduce remuneration on account of contributions

No employer shall, by reason of its liability for any contribution (or penalty thereon made under this Act or regulations made thereunder, reduce whether directly, or indirectly, the remuneration or allowances of any employee on behalf of whom the contribution is payable under this Act.

PART V

Benefits

16. Categories of benefits

Subject to this Act, the following benefits shall be payable to or in respect of a contributor who has satisfied the applicable conditions prescribed by regulations made under this Act, that is-

- (a) retirement pension benefit; or
- (b) retirement grant; or
- (c) survivors benefit; or
- (d) death grant; or
- (e) invalidity benefit; or
- (f) invalidity grant; or
- (g) such other benefit as may be approved from time to time by the Board.

17. Conversion of benefits into credits against stated purposes

Subject to regulations made in that behalf, a contributor may-

(a) apply to have his contributions converted into credits towards the purchase of real property intended for use by himself or his family for residential purposes;
or

(b) apply to have his contributions converted into credits towards the purchase of or acquisition of equity holding in the company which employs the contributor.

(2) The Board shall not approve the conversion of any contribution into credits for the purchase of or acquisition of equity holding in a company pursuant to paragraph (b) of subsection (1) of this section, unless at least two thirds of the employees in the company

concerned have collectively elected to exercise the right to purchase or acquire the equity holding in the event of the equity being available for sale.

PART VI

Inspectors and powers of entry, etc.

18. Power of Board to designate its employees as inspectors

The Board may, from time to time, designate as inspectors, such of its employees as it may determine and may assign the inspectors to such areas of Nigeria as the Board may determine.

19. Power of inspectors to enter premises, etc.

(I) Subject to the production of a letter of authority granted in that behalf, an inspector within the area for which he is designated an inspector may-

(a) at any reasonable time enter any premises or place where he has reasonable cause to believe persons are being employed in respect of whom or by whom contributions are payable under this Act to make any inquiry or examination which the inspector considers necessary to satisfy himself that the provisions of this Act are being complied with;

(b) at any reasonable time enter any such premises as are referred to in paragraph (a) of this subsection and on such occasion may-

(i) search the premises or any receptacle therein for books, records, documents, papers or things which may afford evidence as to the violation of the provisions of this Act or regulations made thereunder;

(ii) interrogate either alone or in the presence of witnesses any employer, employee or any other person found in the premises on any matter concerning the application of any of the provisions of this Act;

(c) require the production for examination of any book, register, account, receipt or other document pertaining to contributions or liability to register or to pay contributions under this Act and may copy such documents or make extracts therefrom.

(2) If, during any examination, it appears to the inspector that there has been a violation of the provisions of this Act or the regulations made thereunder, the inspector shall have the power to seize and take away any of the books, records or other documents relating to the employed person or unpaid contributions and may retain them until they are produced in any proceedings.

PART VII

Penalties and legal proceedings

20. Penalties

(1) A person who-

(a) for the purpose of evading payment of any contributions by him or by any other person, knowingly or recklessly makes any statement which is false or

which is misleading or deceptive or produces or causes to be produced or furnished, any document which is false in any material particular; or

(b) for the purpose of obtaining any payment or other benefit under this Act for himself or some other person-

(i) knowingly makes a false statement or representation; or

(ii) knowingly produces or furnishes or causes to be produced or furnished any document which is false in any material particular; or

(c) being required to register under this Act or regulations made thereunder fails to do so within the period specified therein; or

(d) obstructs any inspector or officer of the Board in the discharge of his duties under this Act,

commits an offence and shall on conviction be liable to a fine of N10,000 or to imprisonment for one year.

(2) A person who-

(a) fails to pay to the fund within the prescribed period any contribution liable to be paid under this Act; or

(b) deducts from the employee's wages and withholds the deduction or refuses or neglects to remit the deduction to the Board, commits an offence and is liable on conviction-

(i) in the case of a first offence to a fine of N10,000 or 500 *per centum* of the amount of the contribution involved together with accrued interest thereon, whichever is higher; or

(ii) in the case of a second or subsequent offence to a fine of N10,000 or 500 *per centum* of the amount of the contribution involved together with accrued interest thereon, whichever is higher.

21. Offences by body of persons

(1) Where an offence under this Act is committed by a body of persons-

(a) in the case of a body corporate, every director or officer of that body shall be deemed to be guilty of the offence;

(b) in the case of a partnership or other association of individuals, every partner or officer of that body shall be deemed to be guilty of the offence and liable accordingly.

(2) No person shall, however, be deemed to be guilty of an offence under subsection (1) of this section, if he proves to the satisfaction of the court that the offence was committed without his consent and connivance and that he exercised all due diligence to prevent the commission of the offence, having regard to all the circumstances.

22. Conduct of proceedings in certain cases

Subject to section 174 of the Constitution of the Federal Republic of Nigeria 1999 (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings), any employee of the Board authorised in that behalf by the Board and who is a legal practitioner may before any court of competent jurisdiction conduct or defend any complaint or other proceedings arising under this Act.

23. Court to order payment of contribution together with interest and penalty

The court before whom any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order that person to pay to the Fund the amount of any contributions together with any interest or penalty on the contribution, certified by the Board to be due from that person to the Fund at the date of the conviction and the amount shall be paid into the Fund for the credit where applicable, of the employees concerned.

24. Proceedings for offences may be commenced at any time

Proceedings in respect of an offence under this Act may be commenced at any time after the commission of the offence.

25. Time for commencement of proceedings for recovery of contributions

(1) Notwithstanding anything contained in any limitation law, contributions under this Act together with any interest or penalty payable or imposed for late payment may be recovered by an action for a debt owing to the Board at any time within twelve months from the date when the contribution or penalty becomes due.

(2) An action for the recovery of contribution or other penalty under this section may be instituted in the name of the Board by an employee of the Board authorised to do so.

PART VIII

Financial provisions

26. Estimates

The Board shall cause to be prepared in respect of each year an estimate of its income and of expenditure for that year.

27. Expenses to be paid out of the Fund

All expenses incurred in the administration of the Fund shall be paid by the Board out of the monies of the Fund.

28. Investment of funds

Money standing to the credit of the Fund and not immediately required to be expended in meeting the obligations of the Board may be invested from time to time in such proportions as the Board may approve, having regard to contingencies.

29. Accounts and audit

(1) The Board shall cause to be kept proper books of account and records in relation thereto and when certified by the Board such accounts shall be audited as provided in subsection (2) of this section.

(2) The Board shall not later than six months after the end of each year cause its accounts to be audited by auditors appointed by the Board from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

(3) The financial year of the Fund shall end on 31 December in each year.

(4) The Board shall determine the fee payable to auditors for the services rendered pursuant to this section.

30. Annual report

The Board shall cause to be prepared and submitted to the President, not later than 30 July in each year a report on the activities of the Board during the immediately preceding year and shall include in the report the audited accounts of the Board and the Auditor-General's report thereon.

PART IX

Miscellaneous provisions

31. Determination of question as to liability to contribute

Any question arising as to the liability of an employer or any other person to pay contributions under this Act, shall be determined by the Managing Director whose decision shall be subject to the approval of the Board.

32. Documents executed by Board not liable to stamp duty

No stamp duty shall be payable on any receipt, contract, instrument or other document given or executed by or on behalf of the Board.

33. Board exempted from payment of income tax

The Board shall not be liable to pay income tax and no tax by whatever name called shall be payable in respect of any property vested in the Board.

34. Benefits exempted from tax and inalienable

(I) Benefits payable under this Act-

(a) shall be exempted from taxation; and

(b) shall not be liable to attachment for debt under any process of law.

(2) Contributions to the Fund shall be inalienable and shall not be assets for the benefits of creditors in the event of the bankruptcy or insolvency of the contributor.

35. Contributions to be tax deductible

Notwithstanding anything to the contrary contained in any law or enactment, contributions whether by an employee under this Act shall form part of tax deductible expenses

in the computation of taxes payable by an employer or as the case may be, by an employee under any relevant law applicable to income tax.

36. Transfer of liability to contribution in the case of mergers, acquisitions, etc.

(1) Where, in respect of a scheme under section 100 of the Investment and Securities Act an order is made by the court under subsection (3) of that section which includes the transfer to the company of the whole or any part of the undertaking and of the property and liabilities of any transferor company, the order shall include provisions for the taking over as from such date as may be specified in the order, of the liability for any contribution that had become payable to the Fund (together with any accrued interest thereon) in respect of the employees concerned in the undertaking, property or liability transferred.

(2) Any transferee company to which subsection (1) of this section applies, shall be liable in respect of the contribution concerned to the same extent as the transferor company was immediately before the date of the undertaking, property or liability.

37. Indemnity

No member, officer, servant or agent of the Board shall incur personal liability for any act done in good faith while engaged in the business of the Board.

38. Review of operation of the scheme

(1) The Board shall not later than five years from the commencement of this Act and at least once during the course of every five years thereafter, cause an actuary to review the operations of the Board under this Act.

(2) An actuary, appointed pursuant to subsection (1) of this section, shall prepare a report on the state of the Fund and in regard to any deficiency revealed, he shall state what action he recommends should be taken thereon.

(3) The Board shall submit a copy of the report of the actuary to the Minister together with the Board's observations on any recommendations made by the actuary.

39. Reciprocal agreements

The Minister may enter into a reciprocal agreement with the government of any other country in which a scheme similar to that established, by this Act has been established, and may include in the agreement provisions modifying, adapting or amending the provisions of this Act to give effect to the agreement.

40. Regulations

(1) The Board may, after consultation with the Minister, make regulations giving effect to the provisions of this Act and without prejudice to the generality of the foregoing the regulations may provide for-

- (a) the prescription of anything required to be prescribed under the Act;
- (b) the prescription of rates of contributions payable under the Act;
- (c) specifying the records to be kept by the Board and its employees in respect of

contributions to the Fund;

- (d) specifying the amount of contributions payable under the Act;
- (e) specifying the method of collecting contributions under the Act;
- (j) the prescription of the procedure for making claims and making payments under the Act; and
- (g) the prescription of any forms or documents required for the purposes of the Act;
- (h) the prescription of the procedure for assessment of contribution by or on behalf of the Board.

(2) Regulations made under this section shall not come into operation until they are published in the Federal *Gazette*.

41. Trustee Investments Act not to apply

The provisions of the Trustee Investment Act shall not apply to the investment of money by the Board.

42. Repeal

Without prejudice to the provisions of section 6 of the Interpretation Act, the National Provident Fund Act and the National Provident Fund (Management Board, etc.) Act (in this Act referred to as "the Fund" and "the Management Board" respectively) are hereby repealed.

[Cap. 123. Cap. 273 L.F.N. 1990. Cap. 274 L.F.N. 1990.]

43. Savings and transfer of liabilities, staff, etc.

(1) Accordingly, the statutory functions, rights, interests, obligations and liabilities of the Fund or the Management Board, existing before the commencement of this Act under any contract or instrument, or in law or in equity apart from any contract or instrument shall, by virtue of this Act, be deemed to have been assigned to and vested in the Board established by this Act.

(2) Any such contract or instrument as is mentioned in subsection (1) of this section, shall be of the same force and effect against or in favour of the Board established by this Act and shall be enforceable as fully and effectively as if instead of the Board existing

before the commencement of this Act, the Board established by this Act has been named therein or had been a party thereto.

(3) The Board established by this Act shall be subject to all the obligations and liabilities to which the Fund or the Management Board existing before the commencement of this Act was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Board established by this Act as they had against the Fund or the Management Board existing before the commencement of this Act.

(4) Any proceedings or cause of action pending or existing immediately before the commencement of this Act, by or against the Fund or the Management Board existing before the commencement of this Act in respect of any right, interest, obligation or liability of the Fund or the Management Board existing before the commencement of this Act may be continued or as the case may be commenced and any determination of a court of law, tribunal or other authority or person may be enforced by or against the Board established by this Act to the same extent that such proceeding or cause of action or determination might have been continued, commenced or enforced by or against the Fund or the Management Board existing before the commencement of this Act.

(5) All assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act, were vested in the Fund or the Management Board existing before the commencement of this Act, shall by virtue of this Act and without further assurance be vested in the Board established by this Act.

(6) Any person who immediately before the coming into force of this Act is the holder of any office in the Fund or the Management Board existing before the commencement of this Act shall, on the commencement of this Act, continue in office and be deemed to have been appointed to his office by the Board established by this Act unless the authority by which the person was appointed terminates the appointment.

44. Interpretation

In this Act, unless the context otherwise requires-

"benefit" means benefits payable under this Act;

"Board" means the Nigeria Social Insurance Trust Fund Management Board established by section 2 of this Act;

"chairman" means chairman of the Board;

"contribution" means contribution payable under this Act;

"employee" means any person who-

(a) is employed in Nigeria under any contract of service or apprenticeship with an employer whether the contract is express, implied, oral or in writing;

(b) is ordinarily resident in Nigeria and is employed outside Nigeria under such contract of service with an employer in Nigeria by whom he is paid;

"employer" means the person with whom an employee has entered into a contract of service or apprenticeship and who is responsible for the payment of the wages of the employee and includes the lawful representatives, successors or assigns of such person;

"Fund" means the Nigeria Social Insurance Trust Fund established by this Act;

"injury" means a personal injury and includes a contraction of disease;

"Managing Director" means the person appointed as Managing Director under section 7 of this Act;

"member" means a member of the Board and includes the chairman;

"Minister" means the Minister charged with responsibility for matters relating to labour;

"public service of the Federation" and "public service of a State" have the meaning respectively assigned thereto in the Constitution of the Federal Republic of Nigeria 1999;

"wages" means remuneration in money paid to an employee under this contract of service or apprenticeship as the case may be and whether agreed to be paid at fixed or determined intervals of time-

(a) in respect of normal period of work performed by the employee; or

(b) where payment is calculated in relation to set tasks, in respect of the number of tasks completed by the employee or where payment is calculated in relation to the volume of work completed by the employee in respect of the volume completed by the employee but does not include any allowance paid by the employer whether in respect of cost of living or otherwise whatsoever;

"work" includes piece work.

45. Short title

This Act may be cited as the Nigeria Social Insurance Trust Fund Act.

SCHEDULE [Section 4 (2).]

Supplementary provisions relating to the Board

Proceedings

1. Subject to this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating the proceedings of the Board or any committee thereof.
2. The Board shall meet at least four times in a year and at such other times as the chairman may, from time to time, determine and in any case, shall not meet more than six times in a year.
3. Every meeting of the Board shall be presided over by the chairman of the Board and if the chairman is unable to attend any particular meeting, a member may be appointed by the members present to act as chairman for that particular meeting.
4. The quorum at any meeting of the Board shall be five members.
5. Where standing orders made under paragraph I of this Schedule provide for the Board to co-opt persons who are not members of the Board, such persons may advise the Board on any matter referred to them by the Board, but shall not be entitled to vote at a meeting of the Board or count towards a quorum.

Committees

6. Subject to its standing orders, the Board may appoint such number of standing and *ad hoc* committees as it thinks fit to consider and report on any matter with which the Board is concerned.

7. Every committee appointed under paragraph 6 of this Schedule shall be presided over by a member of the Board and shall be made up of such number of persons, not necessarily members of the Board, as the Board may determine in each case.

8. The quorum of any committee set up by the Board shall be as may be determined by the Board.

9. Where standing orders made pursuant to paragraph 1 of this Schedule provide for a committee of the Board to consist of or to co-opt persons who are not members of the Board, the committee may advise the Board on any matter referred to it by the Board.

10. A decision of a committee shall be of no effect until it is confirmed by the Board.

Miscellaneous

11. The fixing of the seal of the Fund shall be authenticated by the signature of the Managing Director and of any other person authorised in that behalf by the Board.

12. Any contract or instrument which, if made or executed by any person not being a body corporate would not be required to be under seal, may be made or executed on behalf of the Fund by any person generally or specially authorised to act for that purpose by the Board.

13. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of Board shall be received in evidence and shall, unless the contrary is proved, be presumed to have been so signed and sealed.

14. The validity of any proceedings of the Board shall not be adversely affected by-

(a) any vacancy in the membership of the Board; or

(b) any defect in the appointment of a member of the Board; or

(c) reason that a person not entitled to do so took part in the proceedings of the Board.

SUBSIDIARY LEGISLATION