

Governance

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SETTING THE PACE – AS THE PRESIDENT SIGNS INTO LAW THE PENSION REFORM ACT, 2014

President Goodluck Jonathan signed the new Pension Reform Act 2014 into law on 1st July 2014. This effectively brings the operation of the Pension Reform Act, 2004 to an end.

The repealed Pension Reform Act 2004 was received with a lot of enthusiasm, as before then the administration of pension in Nigeria was fraught with irregularities, lapses and outright malpractices. However, it soon became apparent that some of the provisions of the repealed Act were either out of tune with existing social realities or grossly inadequate to stem the loopholes that necessitated the passage of the Act. This culminated in the executive bill for the amendment of the Act to strengthen the National Pension Commission (PENCOM) and safeguard pension funds and assets.

The Pension Reform (Amendment) Bill was passed by the Senate on the 9th of April 2014 and signed into Law by the President on the 1st of July 2014. The highlights of the 2014 Pension Reform Act are as follows:

[Stringent Penalties for Misappropriating or Embezzling Pension Funds or Assets](#)

In addition to 10 years imprisonment as penalty for any administrator who misappropriates pension funds, such persons would be required to refund three times the value of the amount misappropriated. The Bill also provides for a term of five years imprisonment or N10million fine for any pension administrator who fails to remit profits earned from an investment made with the fund of a contributor. There is also a provision for a fine of N500, 000 daily for any agency administering pension affairs which fails to abide by any provision of the Act.

[Employer's Failure to Remit](#)

The new Act empowers the National Pension Commission (PENCOM), subject to the fiat of the Attorney-General of the Federation, to institute criminal proceedings against employers who persistently fail to deduct and/or remit pension contributions of their employees within the stipulated period.

[Accessing Lump Sum Payment after Retirement](#)

The Act reduces the waiting period for accessing the maximum 25% lump sum payment in the event of job loss or early retirement from six to four months.

[Abolition of Pension Management Departments](#)

The Act has abolished Pension Management Departments in Ministries and Parastatals and has transferred their functions to the Federal Government Pension Transitional Arrangement Directorate and Federal Capital Territory Pension Transitional Arrangement Directorate which are obligated to issue payment instructions to



the office of the Accountant General of the Federation in respect of the pensions previously administered by the abolished Pension Management Departments in Ministries and Parastatals.

[Pension Transition Arrangement Departments](#)

To create a seamless process for the payment of pension to retirees of the pre-Pension Reform Act era, the new Act seeks to strengthen the Pension Transition Arrangement Departments (PTADs). A PTAD is designed to take over the payment of pensions to pre-pension reform retirees in departments such as the Police Pension Office; Customs & Immigration as well as the Civil Service Pension Department. The establishment of the PTADs is a fallout of the corrupt practices inherent in departments hitherto responsible for the administration of the pension of the aforementioned agencies.

[Increased Minimum Rate of Pension Contribution](#)

The new Pension Reform Act also increases the minimum rate of contribution from 15% to 18% of monthly emolument. While the employer is required to contribute 10%, the employee contributes 8%. This was done to shore up the pension benefits accruing to employees upon retirement.

[Additional Permissible Investment Instruments](#)

The Act provides for the investment of pension assets and contributions for national development such as investment in the real sector including real estate and infrastructural development.

[Expanded Coverage](#)

The Pension Reform Act 2014 expands coverage of the Contributory Pension Scheme to private sector organizations with three or more employees. The repealed Act was applicable to organizations employing a minimum of five employees.

[Temporary Retirement Savings Account](#)

The Act further empowers an employer to open a Temporary Retirement Savings Account (RSA) on behalf of an employee that fails to open an RSA within three months of assumption of duty.

[Qualification to the Office of Director General](#)

The Act reduces the minimum years of experience required to qualify for appointment as the Director- General of PENCOM. Section 16b (ii) of the 2004 Pension Reform Act had provided that that whoever will be appointed as Director General must possess relevant professional skills and must have not less than 20 years cognate experience relating to pension matters and or Insurance Actuarial Science or other related field. This requirement has been reviewed downwards to 15 years in line with local and international best practice. Perhaps this new provision will herald the appointment of a substantive DG for PENCOM.

The 2014 Pension Reform Act is a bold step towards alleviating the hardship that had become synonymous with retirement in the public sector. With the abolition of Pension Offices and the enrollment of all workers with Pension Fund Administrators, it is expected that the endless queues observed at Pension Offices across the country will disappear and the premature death of long suffering pensioners will become a thing of the past.

Furthermore, the reinforcement of PTADs across the geo-political zones is indeed a welcome development as this will reduce the risks and inconvenience pensioners face as a result of frequent trips to Abuja to resolve their pension issues.

The most significant amendments are those imposing penalties for various infractions of the Act. Those charged with the administration of pension funds in the public sector have for the most part embezzled billions of Naira at the expense of hungry and lonely pensioners who are left to suffer. Furthermore, the extension of the fine and terms of imprisonment to pension custodians and employers who either embezzle pension assets or fail to remit pension contributions, is also commendable.

Also important is the requirement that pension funds be invested to grow the Nigerian economy. All over the world, pension assets, when properly managed and wisely invested, provide a veritable source of funding for government and private institutions. Mortgages and other social facilities are partly funded with pension funds with the attendant benefit to both the contributors and the economy at large. The proposal to use pension funds for infrastructural development has however encountered stiff opposition from fund administrators on the premise of the absence of appropriate legal, regulatory and environmental framework for infrastructure investments in Nigeria that will assure the safety of pension funds and assets. Sans a sovereign guarantee to provide

the needed comfort, it is unlikely that fund managers would be quick to put pension funds and assets at risk.

[Who We Are](#)

DCSL Corporate Services Limited (DCSL provides corporate, company secretarial, immigration, training and governance services to corporate bodies, individuals, government agencies and business organizations. We operate from our Head Office in Lagos, with operational branches in Abuja and Port- Harcourt.

[Forthcoming Event](#)

Our annual Audit Committee Seminar - **“Improving the Performance of the Audit Committee”**© comes up on **28th August, 2014**. The Seminar is for members of the Audit Committee from a wide spectrum of companies operating in various sectors of the Nigerian economy, including banking, manufacturing, publishing, brewing, consumer goods and services, construction and oil and gas. Topics to be discussed include Risk Assessment and Management, Understanding Key Financial Ratios, The Role of the Internal Audit function in Corporate Governance, Preventing Corporate Governance Failure, Ethical Conduct, Whistleblowing and Sustainability Reporting in Financial Statements. Venue is Intercontinental Hotel Lagos, Plot 52-54, Kofo Abayomi Street, Victoria Island, Lagos.

[DCSL Academy](#)

The DCSL Academy is a Corporate Governance and Corporate Secretarial Training Centre of specialized learning for Company Secretaries, In-House Legal Counsel, Compliance Officers, Interns and all those seeking training in these core areas. The training is divided into three main modules and several sub-modules. Sessions will be facilitated on Tuesdays, Wednesdays and Thursdays of the third weeks in the months of July and September 2014.

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