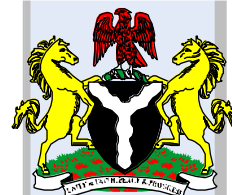


**PenCom**



# **FRAMEWORK FOR RECOVERY OF OUTSTANDING PENSION CONTRIBUTIONS AND INTEREST PENALTY FROM DEFAULTING EMPLOYERS**

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**National Pension Commission**

## 1.0 INTRODUCTION

Section 11 (5) (b) of the Pension Reform Act (PRA 2004) provides that the employer shall not later than 7 days from the day the employee is paid his/her salary, remit an amount comprising the employee's and employer's pension contributions to the custodian specified by the Pension Fund Administrator (PFA) of the employee. Furthermore, Section 11 (7) of the PRA 2004 provides that any employer who fails to remit the contributions within the time prescribed shall, in addition to making the remittance already due, be liable to a penalty to be stipulated by the Commission provided that the penalty shall not be less than 2 percent of the total contributions that remains unpaid for each month the default continues.

## 2.0 OBJECTIVES OF THE FRAMEWORK

The Framework seeks to propose a standard and cost effective procedure for ensuring that outstanding pension contributions (together with interest penalty) of employees under the PRA 2004 are recovered in favour of the respective Retirement Savings Accounts (RSAs). The objective of the framework includes:

- to recover all unremitted pension contributions of employees with interest penalty so as to compensate the affected employees for loss of income that would have been earned from investment of the funds;
- secure full compliance of organizations whose employees had registered with PFAs of their choice; and
- provide a standard procedure for engaging recovery agents to collect unremitted contributions and interest penalty.

## 3.0 GENERAL FRAMEWORK

### 3.1 Coverage

The framework will cover the recovery of outstanding pension contributions from all eligible employers together with interest penalty for the benefit of the concerned employees Retirement Savings Account.

### 3.2 Outstanding Contributions

For the purpose of this framework, outstanding contributions are the pension contributions yet to be remitted into the employee's RSA as required by Section 11 (5) (b) of the PRA 2004.

National Pension Commission

**FRAMEWORK FOR RECOVERY OF OUTSTANDING PENSION CONTRIBUTIONS AND INTEREST PENALTY FROM DEFAULTING EMPLOYERS**

### 3.3 **Recovery Agents**

The recovery agent is any company engaged by the Commission to recover outstanding pension contributions with interest penalty from defaulting employers within a specified timeframe and under agreed terms and conditions.

## 4.0 **THE FRAMEWORK**

The major areas which the framework seeks to address with respect to recovery of unremitted contributions into employees RSAs are:

### 4.1 **Identification of employers with outstanding pension contributions**

Employer with outstanding pension contributions yet to be remitted to their employees RSAs would be identified through the review of monthly return of contribution not received from employers submitted by PFAs. The details of defaulting employers including the name of employees whose pension contributions were not remitted, the amounts involved and the period covered would be generated and verified to ensure accuracy.

### 4.2 **Determination of unremitted pension contributions**

The unremitted contributions by each employer would be determined by computing of contributions yet to be remitted by the identified employers as well as the period of the default. A database of unpaid contributions shall be created for the purpose of computing the appropriate interest penalty to be paid by the employers. For employers who have never remitted contributions for some or all its employees, the unpaid contributions would be determined by either the Commission or the Recovery Agent after receiving the payroll of the organisation. It could also be determined by reviewing the documentations submitted by the employees while submitting RSA registration forms.

### 4.3 **Computation of Interest penalty**

Upon determination of unremitted contributions, penalty to be paid by the defaulting employers shall be computed in line with the provision of Section 11 (7) of the PRA 2004. The interest penalty will be credited to the employees RSAs together with the outstanding contributions. The interest penalty will be twenty four percent (24%) per annum for any outstanding contributions.

#### 4.4 **Appointment of Recovery Agents**

- The engagement of the agents shall be in line with the Commissions' prescribed procedures which will include Requests for Expression of Interest, pre-qualification of firms and Request for Proposal.
- Firms shall have requisite competence and integrity.
- The eligibility shall include but not limited to Accounting firm, Law firm and or consortium of Accounting and law firms.
- The duty of the agents would be to recover all outstanding contributions from defaulting employers together with the interest penalty within a specified period. Specifically, the duties shall include:
  - Serve demand letter to defaulting employers to request for payment of outstanding pension contributions with interest penalty;
  - Reconcile outstanding pension contributions with employers where necessary;
  - Compute Interest penalty in line with PRA, 2004;
  - Follow up with the defaulting employers to ensure

remittance of outstanding pension contributions and interest penalty;

- Obtain evidence of remittance of outstanding pension contributions with interest penalty to the employees' RSAs;
- Forward the evidence of remittance made by defaulting employers to the Commission;
- Institute legal action on recalcitrant employers that failed to remit all outstanding pension contributions with the interest penalty to employees RSAs;
- Submit progress reports to the Commission of all recoveries made and challenges encountered; and
- Perform any other duty that may be specified by the Commission for ensuring compliance with the PRA, 2004.

#### 4.5 **Advertisement**

The Commission shall advertise a general notice in the national dailies informing defaulting employers that recovery agents have been appointed to recover all outstanding pension contributions with interest penalty. The names of defaulting employers

National Pension Commission

**FRAMEWORK FOR RECOVERY OF OUTSTANDING PENSION CONTRIBUTIONS AND INTEREST PENALTY FROM DEFAULTING EMPLOYERS**

assigned to each recovery agent for the recovery purpose would be specified in the advertisement.

#### 4.6 **Assigning of defaulting employers to Recovery Agents for collection of unremitted contributions**

- The Commission shall assign specific defaulting employers to each agent for the recovery of outstanding pension contributions including the interest penalty.
- A formal engagement letter will be issued to each recovery agent indicating the defaulting employers assigned and the principal amount to be recovered.
- For ease of coordination and monitoring, assigning of additional defaulting employers to the recovery agents would be done on quarterly basis.

#### 4.7 **Funding**

Remuneration of recovery agents would be performance based. The remuneration would be met from the interest penalty charged on the

- The Commission would hold quarterly meeting with the recovery agents and Pension Fund Administrators (PFAs) to discuss

outstanding contributions recovered through the efforts of the agents and administration fees charged by PFAs. In that regard, 50% of the interest penalty would be used to defray the cost of recovery while the balance of 50% would be for the benefit of the RSA holder. In addition, PFAs would not be allowed to charge administration fee on RSAs that benefited from the recovery in the arrears or in retrospect.

#### 4.8 **Monitoring the agents with respect to recovery**

- Each agent's performance would be monitored based on set performance standards which would be documented in a Service Level Agreement (SLA) to be executed with the recovery agents.
- Recovery Agents would be required to submit monthly progress report with respect to recoveries from employers assigned to them. The reports would be reviewed to determine if the performance of the agent is satisfactory or otherwise. challenges encountered and ways forward.
- The Compliance and Enforcement Department would be responsible for the implementation of the Framework in conjunction with

other relevant Departments in the Commission.

- The Commission would provide a secretariat and basic resources such as telephone and internet access for use of the recovery agents. The secretariat would be located in the Commission office.

#### 4.9 **Review**

The framework is subject to a periodic review to ensure speedy recovery of unremitted pension contributions by employers.

**Compliance and Enforcement  
Department  
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