

**PenCom**



# REGULATIONS FOR THE ADMINISTRATION OF LEGACY PENSION ASSETS

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**National Pension Commission**

## **About this Regulations**

The Regulations on Administration of Legacy Pension Assets is divided into seven (7) sections.

Section one is the introduction while Section two sets out the rules of general application.

Administering Real Estate Legacy Pension Assets are spelt out in Section three.

Section four outlines the sale of Real Estate, while Section five addresses modalities and options for Transfers to RSAs.

Section six and seven addresses the Fees, Charges, and approvals respectively.

The requirements of these Guidelines are consistent with the provisions of the Pension Reform Act, 2004.

## 1.0 Introduction

1.1 Prior to the commencement of the Pension Reform Act 2004 (PRA 2004), retirement benefits were hitherto managed by various institutions such as insurance companies, asset managers, banks and discount houses, which administered these funds under various schemes and made payments to beneficiaries in the form of gratuities, annuities and pensions.

1.2 With the advent of the PRA 2004, the management and custody of pension funds and assets became exclusively vested in licensed Pension Fund Administrators and Custodians as postulated in Sections 44 & 46 of the Act.

1.3 In response to the enforcement efforts of the Commission and indeed in compliance with the provisions of the PRA 2004, a good number of these Legacy Assets have already been transferred by some of these fund managers to licensed Pension Fund Administrators. It has therefore become imperative for the Commission to develop a guideline that will address issues relating to the administration of the transferred legacy pension assets.

1.4 The Commission therefore, proposes to issue Regulations to address issues relating to the administration of those pension assets in line with the PRA 2004.

1.5 The Regulations would set out rules to enable PFAs to effectively manage and administer those assets, and also

provide the incentive for PFAs to intensify efforts in ensuring that the beneficiaries of the funds open Retirement Savings Accounts (RSAs).

1.6 Furthermore, the proposed Regulations had been exposed to operators over a period of eight weeks in order to obtain their comments and feedback. These comments were appraised and where appropriate, considered in finalizing the Regulations.

## 2.0 General Rules

2.1 Any legacy asset transferred from the employer to the PFA cannot be replaced or swapped without the prior approval of the Commission.

2.2 The Employer that has transferred its legacy assets to a PFA shall notify the Commission in writing of its appointment of that PFA and details of transferred assets.

2.3 The approved scheme adopted by the employer shall be managed by the PFA, in line with the terms and conditions agreed upon between the PFA and the employer.

2.4 Any legacy asset fund shall be audited in line with the Guideline for Auditing of Pension funds issued by the Commission and a copy of the audit report forwarded to the Commission.

## 3.0 Administering Real Estate Legacy Pension Assets

3.1 Any PFA administering legacy pension asset, which include real estate shall inform all mortgagees and tenants,

(where they exist) in writing of the new arrangement notifying them of the change in title and also giving the directives to, henceforth, channel all mortgage and rental payments to the PFC/PFA account.

3.2 For the purpose of management of the properties, the PFA may choose to continue with the existing property/estate manager (if any) or appoint a new manager who shall be mandated to pay rent and any other proceeds from the property into the PFC/PFA bank account.

3.3 Pursuant to 3.2, a property management agreement shall be executed between the PFA and the estate manager.

3.4 A copy of the agreement referred to in 3.3 shall be forwarded to the PFC.

3.5 The estate manager appointed by the PFA shall make available copies of all lease agreements on the landed properties to the PFC.

3.6 The responsibility of the PFC with regards to the arrangement of collecting rent shall be clearly spelt out in the custodial agreement between the PFA and PFC.

#### 4.0 **Sale of Real Estate**

4.1 The sale of properties shall be in line with the Procedure for Sale of Properties being Legacy Pension Assets transferred to PFAs, earlier communicated by the Commission to all operators:

- Valuation of real estate legacy assets shall be carried out by three (3) reputable firms accredited by the Nigerian Institute of Estate Surveyors and Valuers (NIESV) appointed by the PFA.
- The PFA shall obtain prior approval of the Commission before the appointment of professional Estate Valuers.
- The PFA shall determine the average value of each asset from the submission of the three valuers.
- The average value shall serve as a bench mark for the selling price.
- The PFA shall obtain from the Commission a 'no objection' of the new valuation reports on the properties and recommended sale price.
- The properties shall be advertised at the recommended price in at least two (2) national dailies.
- The PFA shall obtain from the Commission a 'no objection' to engage Estate Agents to the sell the properties at the recommended sale price.
- The approved sale price shall be subject to review after six months if the property is not sold.
- The PFA must seek approval from the Commission before approving valuation fees and disposing any real estate legacy asset.
- The PFA shall agree with prospective buyers on mode of payment and period within which payment must be effected otherwise the offer will lapse.

- All payments **MUST** be made directly to the Custodians.
- The Custodians must obtain the approval of the Commission before release of title documents.

## 5.0 Transfers to RSAs

5.1 An employer whose legacy pension funds and assets were transferred to a PFA shall also have the option to transfer the legacy funds and assets to the RSAs of its employees opened with various PFAs.

5.2 Where the legacy assets have to be transferred to the respective RSAs, in the case of liquid assets, the employer shall forward to the PFA/PFC and the Commission, details of its employees/beneficiaries to the fund for which assets have to be transferred. The details should include:

- Name
- PIN
- PFA and
- Accrued benefits computed.
- Date of transfer

5.3 Where the assets have to be transferred to another PFA, in the case of fixed assets, the PFA administering the fund shall effect the transfer when it has realized the value of the assets.

5.4 The PFA shall transfer the proceeds to the PFC of the receiving PFA.

5.5 The employer shall be allowed to liquidate the assets in order to meet maturing obligations arising from pension payments and for transfer of accrued rights to beneficiaries' RSAs, subject to the Commission's approval.

## 6.0 Fees and Charges

6.1 Any fees and charges incurred in the process of transferring legacy pension assets from the asset managers to licensed Pension Fund Administrators shall be borne by the fund.

## 7.0 Approvals

7.1 All fees and charges on the fund and assets to be transferred shall be subject to the final approval of the Commission. In approving such fees and charges, the Commission shall:

- Determine that such fees are necessary.
- Ensure that such fees and charges are in consonance with current trends in the industry.

7.2 No legacy asset shall be transferred by a PFC/PFA without due approval by the Commission.