National Pension Commission

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Transitional Arrangements

Circular GUID/01/TRANS

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IMPLEMENTATION OF THE PENSION REFORM ACT 2004
GUIDELINES FOR TRANSITIONAL ARRANGEMENTS

1.0 Introduction

1.1 The purpose of the guidelines is to provide general guidance on transitional matters for both the public and private sectors relating to the implementation of the Pension Reform Act 2004.

1.2 The guidelines are intended to ensure smooth transition to the new Contributory Pension Scheme.

1.3 The guidelines shall apply to all employees in the Public Service of the Federation and the Federal Capital Territory, and the Private Sector that has five (5) or more employees.

1.4 Any employee covered by paragraph 1.3 and who at the commencement of this Act is entitled to retirement benefits under any pension scheme existing before the commencement of this Act but has 3 years or less to retire in accordance with the term of his/her employment shall be exempted from the scheme. Similarly, the categories of officers mentioned in Section 291 of the Constitution of the Federal Republic of Nigeria 1999 and existing pensioners shall be exempted from the Scheme.

1.5 The guidelines are based on the National Pension Commission's interpretation of the relevant legislation in respect of the various existing retirement schemes for which it is the regulator.

1.6 The guidelines will be revised, by the National Pension Commission (Commission), from time to time.

1.7 Users of the guidelines are encouraged to exercise their own skill and care in relation to any material contained therein.

2.0 Transitional Arrangements for the Private Sector

2.1 For the purpose of implementing the Act, this section covers all business establishments other than government but including civil society organizations, local employees of Embassies and High Commissions and International Organisations.

2.2 As from the commencement of the Act and before the licensing of Pension Fund Administrators (PFA) and Pension Fund Custodians (PFC), employers are required to open a temporary Retirement Savings Account for each employee.

Accrued Retirement Benefits Rights

2.3 As at the commencement of the Act, the retirement benefits in respect of accrued or past service earned by each employee shall be computed by his/her employer in accordance with the existing contract of service. Every defined benefits scheme shall **within ninety days from the date of publication of these guidelines** cause to be prepared in respect of the scheme fund an actuarial valuation, provided that defined benefits schemes which have caused to be prepared an actuarial valuation in respect of the scheme fund within twelve months prior to the date of publication of these guidelines shall not be required to prepare another valuation.

2.4 The employer shall credit the Retirement Savings Account of each employee with any funds to which the employee is entitled in paragraph 2.3. In this regard, an employer that keeps its retirement benefits funds with a third party should liaise with the fund manager or administrator and ascertain the value of the fund.

2.5 In the event the funds are not sufficient to meet the accrued liabilities computed in paragraph 2.3, a written obligation to that effect shall be issued to the concerned employee and the terms of repayment of such obligation shall be agreed with the employee.

2.6 The employer shall notify the Commission of any written obligation under paragraph 2.5 and the steps taken or to be taken to meet such obligation.

Contributions to the Scheme

2.7 As from the commencement of the Act, contribution by the employer and the employee shall also be credited to each employee's temporary Retirement Savings Account.

2.8 Every employer shall maintain proper books of accounts and records of contributions made after the commencement of the Act.

2.9 The contribution of the employer and the employee shall be a minimum of 7.5% each of the employee's monthly emoluments as provided in the Act.

2.10 Where the contribution, prior to the commencement of the Act, by an employer exceed the minimum stipulated by the Act, such employer will not reduce the level of that contribution.

2.11 An employer could decide to make both the employer and employee's contributions to the Retirement Savings Account provided that the total sum contributed by the employer meets the minimum sum (15% of total monthly emoluments) required by the Act.

2.12 If an employer chooses to contribute more than the 7.5% required by the Act, but less than 15% of the employee's total monthly emoluments, the employee will still be required to contribute the minimum of 7.5% so that the total amount of money contributed by the employer and employee must not be less than the 15% minimum required by the Act.

2.13 After the licensing of Pension Fund Administrators and Pension Fund Custodians, the employee shall open a Retirement Savings Account with a PFA of his choice and the amount standing to his or her credit derived from the accrued rights and the contributions referred to in paragraphs 2.4 and 2.7 respectively shall be transferred to that account within thirty (30) days. The employer shall thereafter notify the National Pension Commission of such transfers.

2.14 For employees who were exempted by the Act (having less than three years to retire contractually), the employer shall continue to contribute to such employees' retirement benefit the same level of contribution before the commencement of the Act until such employees retire.

Access to Retirement Savings Account

2.15 Any sums of money generated by the accrued pension rights of an employee determined for or contributed by each employee before the commencement of the Act may be accessed by the employee on retirement based on the terms of the contract of employment prior to the commencement of the Act.

2.16 Contributions made after the commencement of the Act, shall only be applied, accessed or otherwise utilised in accordance with the relevant provisions of the Act.

Continuation and Management of Existing schemes

2.17 Any employer wishing to continue with its existing scheme shall apply to the Commission and should comply with the provisions of Section 39 of the Act.

2.18 Any employer that elects to continue with its existing scheme and desires to manage its pension fund shall also apply to the National Pension Commission to be licensed as a Closed Pension Fund Administrator (Specific guidelines for the requirements of a Closed Pension Fund Administrator will be issued shortly).

Nigeria Social Insurance Trust Fund (NSITF)

2.19 The Nigeria Social Insurance Trust Fund (NSITF) shall compute for each contributor or beneficiary the contributions made and attributable income thereto in the context of NSITF Act of 1993 before the commencement of the Pension Reform Act.

2.20 NSITF shall open Retirement Savings Accounts for each contributor or beneficiary and credit such account with the amounts computed in paragraph 2.19.

2.21 The funds credited to the Retirement Savings Account of a contributor shall remain with the PFA of NSITF for not less than 5 years from the commencement of the Act. Thereafter, each beneficiary is free to determine which PFA will manage these funds on his or her behalf.

2.22 All contributions made to the NSITF from the commencement of the Act but before the licensing of PFAs shall be transferred by the NSITF to an employee's Retirement Savings Account with a Pension Fund Administrator of his/her choice.

2.23 The NSITF shall establish a company to be licensed by the National Pension Commission to undertake the business of a Pension Fund Administrator.

3.0 Transitional Arrangements for the Unfunded Public Sector

Accrued Retirement Benefits Rights

3.1 As at the commencement of the Act, the retirement benefits in respect of accrued or past service earned by an employee shall be computed by the Government in accordance with the terms of contract of service existing before the commencement of the Act.

3.2 Each employee shall be issued with a Federal Government Retirement Bond equivalent to the total retirement benefits that was due to him/her as at the commencement of the Act as computed under paragraph 3.1.

3.3 Upon retirement of an employee, the bond shall be redeemed by the Central Bank of Nigeria from the Redemption Fund Account already established for that purpose.

3.4 The proceeds of the bond so redeemed shall be transferred to the credit of the Retirement Savings Account of the employee.

Contributions to the New Scheme

3.5 Collections of contributions from the employer and the employee commenced in the month of July 2004 and are being lodged at the Central Bank of Nigeria pending the licensing of Pension Fund Administrators and Pension Fund Custodians. The Central Bank of Nigeria is investing the contributions in Treasury Bills. Ministries, Departments and Agencies are advised to refer to the Head of Civil Service of the Federation's Circular No. HCSF/C/503/II/96 of 28th June, 2004 and the Accountant-General of the Federation's Treasury Circular No. TRY/A10&B10/2004 of 28th September, 2004 for ease of reference.

3.6 Each Ministry, Department and Agency must submit to the National Pension Commission a profile of each employee as requested in the specified format issued by the Commission.

3.7 The Commission shall cause to be open a Temporary Retirement Savings Account for each employee whose profile has been verified.

3.8 The National Pension Commission will within ninety (90) days of licensing of PFAs, compute and transfer all contributions and returns thereof to the credit of the Retirement Savings Account opened with the Pension Fund Administrator of employees' choice.

4.0 Transitional Issues for Self-Funded Public Sector Agencies

4.1 For the purpose of implementing the Act, this section covers public sector agencies that do not derive their funding from the annual Federal Government Budget.

4.2 With effect from the commencement of the Act and before the licensing of Pension Fund Administrators and Pension Fund Custodians, employers shall open a Temporary Retirement Savings Account for each employee.

Accrued Retirement Benefits Rights

4.3 As at the commencement of the Act, the retirement benefits in respect of accrued or past service earned by each employee shall be computed by each employer in accordance with the existing contract of service. Every defined benefits scheme shall **within ninety days from the date of publication of these guidelines** cause to be prepared in respect of the scheme fund an actuarial valuation, provided that defined benefits schemes which have caused to be prepared an actuarial valuation in respect of the scheme fund within twelve months prior to the date of publication of these guidelines shall not be required to prepare another valuation.

4.4 The employer shall credit the Retirement Savings Account of each employee with any funds to which each employee is entitled in paragraph 4.3. In this regard, an employer that keeps its retirement benefits funds with a third party should liaise with the fund manager or administrator and ascertain the value of the fund.

4.5 In the event the funds are not sufficient to meet the accrued liabilities computed in paragraph 4.3, a written obligation to that effect shall be issued to the concerned employee and such obligation shall have the same priority as salary. The terms of repayment of such obligation shall be agreed with the employee.

4.6 The employer shall notify the Commission of any written obligation under paragraph 4.5 and the steps taken or to be taken to meet such obligation.

Contributions to the Scheme

4.7 With effect from the commencement of the Act, contributions by the employer and the employee shall also be credited to each employee's temporary Retirement Savings Account.

4.8 Every employer shall maintain proper books of accounts and records of contributions made after the commencement of the Act.

4.9 The contribution of the employer and the employee shall be a minimum of 7.5% each of the employee's monthly emoluments as provided in the Act.

4.10 Where the contributions, prior to the commencement of the Act, by an employer exceed the minimum stipulated by the Act, such employer will not reduce the level of that contribution.

4.11 An employer could decide to make both the employer and employee's contributions to the Retirement Savings Account provided that the total sum contributed by the employer meets the minimum sum (15% of total monthly emoluments) required by the Act.

4.12 If the employer chooses to contribute more than the 7.5% required by the Act, but less than 15% of the employee's total monthly emoluments, the employee will still be required to contribute the minimum of 7.5% so that the total amount of money contributed by the employer and employee must not be less than the 15% minimum required by the Act.

4.13 After the licensing of Pension Fund Administrators and Pension Fund Custodians, an employee shall open a Retirement Savings Account with a PFA of his/her choice and the amount standing to his or her credit derived from the accrued rights and the contributions referred to in paragraphs 4.4 and 4.7 respectively shall be transferred to that account within thirty (30) days. The employer shall thereafter notify the National Pension Commission of such transfers.

Continuation and Management of Existing Schemes

4.14 Any employer wishing to continue with its existing scheme shall apply to the Commission and should comply with the following:

(i) the pension scheme shall be fully funded;

(ii) the pension funds and assets shall be fully segregated from the funds and assets of the employer;

(iii) the pension funds and assets shall be held by a licensed Pension Fund Custodian;

(iv) every employee in the existing scheme shall be free to exercise the option of coming under the Scheme established under Section 1 of the Act;

(v) in the event that an employee exercises the option in (iv) hereof, the employer shall compute and credit to his/her account the contributions and distributable income earned as at the date the employee exercises such an option subject to further rules and guidelines issued by the Commission;

(vi) any amount computed under (v) hereof shall be transferred to the Retirement Savings Account of the employee maintained with a Pension Fund Administrator of his/her choice;

(vii) all investments in assets other than specified as permissible investment for pension funds and assets under Section 73 of the Act may be maintained and from the commencement of the Act all investments shall be subject to the regulation, rules and standards established by the Commission;

(viii) the employer shall undertake to the Commission that the pension fund shall be fully funded at all times and any shortfall to be made up within 90 days; and

(ix) the employer shall have managed pension funds and assets for a period not less than 5 years prior to the commencement of the Act.

4.15 An employer that elects to continue with its existing scheme and desires to manage its pension fund shall also apply to the National Pension Commission to be licensed as a Closed Pension Fund Administrator (Specific guidelines for the requirements of a Closed Pension Fund Administrator will be issued shortly).

5.0 Transitional Matters Relating to Existing Pensioners and those Exempted by the Act

5.1 The retirement benefits of employees exempted by the Act in the public and private sectors shall be computed as provided in the First Schedule of the Act and Existing Scheme Rules respectively.

5.2 Existing pensioners and employees of the Public Service of the Federation and Federal Capital Territory who had three years or less to retire as at the commencement of the Act and the categories of officers mentioned in Section 291 of the Constitution of the Federal Republic of Nigeria 1999, shall be paid their retirement benefits by the respective Pension Departments.

6.0 Licensing of Pension Fund Administrators and Pension Fund Custodians

6.1 Effective January 2005 the licensing processes of Pension Fund Administrators and Pension Fund Custodians would commence.

6.2 Guidelines on the licensing of PFAs and PFCs would be issued in due course.

7.0 Statement of Compliance

7.1 All employers shall send to the Commission a statement of compliance with these guidelines.

8.0 Further Enquiries

8.1 Further enquiries should be directed to the:

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