

# **INDUSTRIAL TRAINING FUND ACT**

[Amended by the Industrial Training Fund (Amendment) Act, 2011]

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Constitution, etc., of the Industrial Training Fund Governing Council

## INDUSTRIAL TRAINING FUND ACT

An Act to set up an Industrial Training Fund comprising sums provided by the Federal Government and contributions by employers in the prescribed matters and other related matters.

[1971 No. 47.]

[8th October, 1971]

[Commencement.]

### 1. Establishment of Industrial Training Fund

There is hereby established a fund to be known as the Industrial Training Fund (in this Act referred to as "the Fund") into which shall be paid-

- (a) all contributions prescribed by this Act;
- (b) such sums as may be provided for that purpose by the Federal Government; and

- (c) funds provided by the Federal Government for the students Industrial Work Experience Scheme:  
Provided that such fund shall be channelled through the Federal Ministry of Industry.

[1990 No. 44.]

## 2. Utilisation of the Fund

The Fund shall be utilised to promote and encourage the acquisition of skills in industry or commerce with a view to generating a pool of indigenously trained manpower sufficient to meet the needs of the economy.

[1973 No. 37.]

## 3. Establishment of the Industrial Training Fund Governing Council

- (1) There shall be, for the purpose of administering the Fund in accordance with the provisions of this Act, a body to be known as the Industrial Training Fund Governing Council (in this Act referred to as "the Council").
- (2) The Council shall be a body corporate with perpetual succession and a common seal.

[1976 No. 14.]

- (3) The provisions of the Schedule to this Act shall have effect with respect to the constitution of the Council and its proceedings and the other matters therein contained.

[Schedule.]

## 4. Powers of the Council

- (1) The Council shall have power-

- (a) to provide or secure the provision of such courses and other facilities (which may include residential accommodation) for the training of persons employed or intending to be employed in industry or commerce as may be required, having regard to any courses or facilities available to such persons;
- (b) to approve such courses and facilities provided by other persons;
- (c) from time to time, to consider the employment in industry or commerce as appears to require special consideration and publish recommendations with regard to the nature and length of the training for any such employment and the further education to be associated with the training, the persons by and to whom the training ought to be given, the standards to be attained as a result of the training and the methods of ascertaining whether those standards have been attained;
- (d) to apply or make arrangements for the application of selection tests and of tests or other methods for ascertaining the attainment of any standards recommended by the Council and may award certificates of the attainment of those standards;
- (e) to assist persons in finding facilities for being trained for employment in industry or commerce;
- (f) to carry on or assist other persons in carrying on research into any matter relating to training for employment in industry or commerce.

(2) The Council shall have power-

- (a) to acquire and hold property whether movable or immovable; and

[1976 No. 14.]

- (b) to enter into contracts.

5. Director-General and other officers of the Fund

- (1) The Minister may, with the prior approval of the President appoint a fit person to be called the Director-General of the Industrial Training Fund who shall be the administrative head of the Fund, and, subject to the directions of the Council, shall be responsible-
  - (a) for the assessment of contributions under this Act and for the collection and payment of moneys into the Fund;
  - (b) for the payment of all disbursements authorised under or by virtue of this Act;
  - (c) for accounting for all moneys collected, paid or otherwise expended under this Act;
  - (d) for ensuring the achievement of the aims of this Act.

[1990 No. 44.]

- (2) The Council may, from time to time, appoint as officers or employees of the Fund such number of persons as may be necessary to assist the Director-General in the performance of his duties under this Act, who shall be subject to the general control of the Director-General, and who shall perform such duties as the Director-General may from time to time, determine.

#### 6. Liability to contribute to the Fund

- (1) Every employer having twenty-five or more employees in his establishment, shall in respect of each calendar year and or the prescribed date, contribute to the Fund one per centum of the amount of his annual pay roll.

[1973 No. 37.]

- (2) In this section "the prescribed date"-
  - (a) in respect of the year one thousand nine hundred and seventy-one, means a date not later than three months from the commencement of this Act; and
  - (b) in respect of every subsequent year, means a date not later than 1 April of the following year.

- (3) The Minister may, with the approval of the President by order published in the Federal Gazette, vary the rate of contribution prescribed in subsection (1) of this section.
- (4) In this section, "employees" means all persons whether or not they are Nigerian, employed in any establishment in return for a salary, wages or other consideration, and whether employed full-time or part-time, and includes temporary employees who work for periods of not less than three months in a year.

## 7. Refund

- (1) The Council may make a refund of up to sixty per centum of the amount paid by an employer if the Council is satisfied that the training programme of the employer is adequate.
- (2) The Council shall notify the Federal Board of Inland Revenue of any refund made pursuant to this Act.

## 8. Duty of employers to train indigenous staff, etc.

- (1) All employers who pay their annual training levies-
  - (a) shall, at all times, provide adequate training for their indigenous staff with a view to improving on the skills related to their job and evidence of such training shall be forwarded to the Fund;
  - (b) shall accept students for industrial attachment purposes.

[1990 No. 44.]

- (2) Any employer who is in breach of the provision of subsection (1) of this section shall be guilty of an offence under this Act and liable on conviction-
  - (a) in the case of a body corporate to a fine of N5,000 for the first breach and N10,000 for each subsequent breach; and

- (b) in the case of the Chief Executive, Secretary or other principal officer of the company to a fine of N1,000 or two years imprisonment for a first breach and two years imprisonment without option of fine for each subsequent breach.

#### 9. Penalty for non-payment

- (1) If any contribution is not paid within the time prescribed in section 6 of this Act, a sum equal to five per centum of the amount unpaid shall be added for each month or part of a month after the date on which payment should have been made.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Council may if it thinks fit, remit in whole or in part any penalty imposed under this section.

#### 10. Accounts and audit

- (1) The Council shall keep proper accounts and proper records in relation thereto, and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may direct.
- (2) The Council shall as soon as may be after the end of the financial year to which the accounts relate cause the accounts to be audited by auditors appointed from a list and in accordance with the guidelines prepared by the Auditor-General for the Federation by the Council with the approval of the Minister.
- (3) The auditors shall on the completion of the audit of the accounts of each financial year prepare and submit to the Council a report setting out their observations and recommendations on all aspects of the accounts of the Council for that year; and the Council shall forward a copy of the report to the Minister.

#### 11. Civil proceedings

- (1) Notwithstanding any other provisions of this Act, a contribution to the Fund shall be recoverable by action as a debt owing to the Fund at any time within six years from the date when the contribution became due.
- (2) Any action for the recovery of contributions under this section may be instituted by the Director-General or by any officer of the Fund on behalf of the Secretary or by any other person authorised by the Minister, and where the action is instituted in a magistrate's court, any person authorised by this subsection may appear and conduct the case.
- (3) For the purposes of this section "contribution" includes any interest or penalty payable or imposed for non-payment or for late payment, as the case may be.

#### 12. Certificate as evidence

A copy of an entry in the accounts of the Fund or other extract from the records of the Fund shall, when certified by the Director-General be received in all courts as prima facie evidence of the truth of the contents thereof and, as the case may be, of the debt to the Fund by any person.

[1976 No. 14.]

#### 13. Power of Minister to determine questions in special cases

If any question of fact arises as to the liability of an employer to pay contributions under this Act, the question shall be determined by the Minister.

#### 14. Returns



The Director-General may require any employer to furnish such returns and other information and to keep such records and produce them for examination by or on behalf of, the Director-General as appears to the Director-General to be necessary for carrying out his functions under this Act.

[1976 No. 14.]

## 15. Offences

- (1) If any employer fails, neglects or refuses to furnish the required returns specified in section 14 of this Act, the Director-General of the Fund or any staff authorised on his behalf shall be and is hereby empowered to assess, according to his best judgment, the appropriate levy or contribution the employer shall pay to the Fund; but such assessment shall not affect the authority of the Director-General or any staff authorised on his behalf to assess the actual amount of the employer's liability when the employer subsequently makes his returns.

[1990 No. 44.]

- (2) Any person who-
  - (a) knowingly or recklessly furnishes, in pursuance of any requirement under section 14 of this Act, any returns or information which is false in a material particular; or
  - (b) wilfully makes a false entry in any record required to be produced under that section, or with intent to deceive, makes use of any such entry which he knows to be false, shall be guilty of an offence.

[1990 No. 44.]

- (3) Any person who is found guilty of an offence under subsection (2) of this section shall be liable on conviction-
  - (a) in the case of a body corporate to a fine of N5,000 for a first offence and N10,000 for each subsequent offence; and

(b) in the case of the Chief Executive, Secretary or other principal officer of the company to a fine of N1,000 or two years imprisonment for a first offence and three years imprisonment without option of fine for each subsequent offence.

[1990 No. 44.]

## 16. Interpretation

In this Act, except where the context otherwise requires-

"The Council" means the Industrial Training Fund Governing Council established under section 3 of this Act;

"Director-General" means Director-General of the Fund appointed under section 5 of this Act;

"Employer" means any person engaged in industry or commerce with whom an employee entered into a contract of service or apprenticeship and who is responsible for the payment of wages or remuneration to the employee;

"The Fund" means the Industrial Training Fund established under this Act;

"The Minister" means the Minister charged with responsibility for industry.

## 17. Short title

This Act may be cited as the Industrial Training Fund Act.

## **SCHEDULE**

[Section 3 (3).]

Constitution, etc., of the Industrial Training Fund Governing Council

1. The Governing Council shall consist of thirteen members to be appointed by the Minister and shall comprise-
  - (a) the chairman;
  - (b) the Director-General;
  - (c) one representative each from the following Federal Ministries-
    - (i) Industry;
    - (ii) Employment, Labour and Productivity;
    - (iii) Education;
  - (d) one representative of the Ministry of Budget and Planning;
  - (e) one representative of the National Employers Consultative Association;
  - (f) one representative of the National Association of Chambers of Commerce, Industries, Mines and Agriculture;
  - (g) one representative of the Nigerian Labour Congress;
  - (h) one representative of the Manufacturers Association of Nigeria;
  - (i) one person with extensive knowledge of and close association with industrial training; and
  - (j) two persons who shall not come from the same State, to represent the States in rotation for two years at a time.

[1990 No. 44.]

- (1) The President shall on the advice of the Minister, appoint a chairman of the Council.

(2) The Minister shall convene the first meeting of the Council.

The Council shall appoint a vice-chairman from among its members not being a member representing the same interest as the chairman.

[1976 No. 53.]

4. The fixing of the seal of the Council shall be authenticated by the signature of the chairman of the Council and such other person as may be authorised in that behalf by the Council.

[1976 No. 14.]

5. Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Council by any person specially or generally authorised to act for that purpose by the Council.
6. Anything required to be done by the Council, in relation to any powers or duties of the Council under this Act, may be signified under the hand of the Chairman or of the Director-General.

[1976 No. 53.]

7. Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

8. Except as otherwise provided in this Act the provisions of section 26 of the Interpretation Act shall apply to the service of process, if the notice or other document to be served is addressed in accordance with the provisions of that Act.

[Cap. I23.]

9. Any member appointed under paragraph 1 (e) to (i) of this Schedule shall hold office for two years and shall be eligible for reappointment.
10. Without prejudice to section 11 of the Interpretation Act (which relates to appointments) a member of the Council may at any time by notice in writing addressed to the Minister resign his office, and if a member becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister may remove that member from his office.

[Cap. I23.]

11. Subject to paragraph 2 of this Schedule, the Council shall meet at least once each year and on such other occasions as the Council may consider necessary.
12. Every meeting of the Council shall be presided over by the chairman, or, if the chairman is unable to attend any particular meeting, by the vice-chairman.
13. (1) Subject to the provisions of this Act and of section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the chairman to have a second or casting vote) the Council may make standing orders regulating its proceedings.

(2) The quorum for any meeting of the Council shall be five.

[1990 No. 44.]

(3) The validity of any proceedings of the Council shall not be affected-

(a) by any vacancy in the membership of the Council;

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

(c) by reason of the fact that any person not entitled to do so took part in the proceedings.

14. A member of the Council who is not a public officer shall be paid out of the moneys at the disposal of the Council such remuneration and allowances as the Minister with the approval of the President may determine.

INDUSTRIAL TRAINING FUND ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation