

# **PENSION REFORM ACT, 2014**

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## **EXPLANATORY MEMORANDUM**

This Act repeals the Pension Reform Act No .2, 2004 and enacts the Pension Reform Act, 2014 to continue to govern and regulate the administration of the uniform contributory pension scheme for both the public and private sectors in Nigeria.

## **PENSION REFORM ACT, 2014**

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## **PENSION REFORM ACT, 2014**

**An Act to repeal the Pension Reform Act No. 2, 2004 and enact the Pension Reform Act, 2014 to make provision for the uniform contributory pension scheme for public commencement and private sectors in Nigeria ; and for related matters.**

ENACTED by the National Assembly of the Federal Republic of Nigeria-

### PART I - OBJECTIVES AND APPLICATION

Objectives.

- 1.** The objectives of this Act are to -
  - (a) establish a uniform set of rules, regulations and standards for the administration and payments of retirement benefits for the Public Service of the Federation, the Public Service of the Federal Capital Territory, the Public Service of the State Governments, the Public Service of the Local Government Councils and the Private Sector;
  - (b) make provision for the smooth operations of the Contributory Pension Scheme;

- (c) ensure that every person who worked in either the Public Service of the Federation, Federal Capital Territory, States and Local Governments or the Private Sector receives his retirement benefits as and when due; and
  - (d) assist improvident individuals by ensuring that they save in order to cater for their livelihood during old age.
2. (1) The provisions of this Act shall apply to an employment in the Public Service Application. of the Federation, the Public Service of the Federal Capital Territory, the Public Service of the States, the Public Service of the Local Governments and the Private Sector.
- (2) In the case of the Private Sector, the Scheme shall *apply* to employees who are in the employment of an organization in which there are 15 or more employees.
- (3) Notwithstanding the provisions of subsection (2) of this section, employees of organisations with less than three employees as well as self-employed persons shall be entitled to participate under the scheme in accordance with guidelines issued by the Commission.

## PART II - ESTABLISHMENT OF A CONTRIBUTORY PENSION SCHEME

### Establishment of Contributory Pension Scheme.

3. (1) There is established for any employment in the Federal Republic of Nigeria, a Contributory Pension Scheme (in *this Act* referred to as "the Scheme") for payment of retirement benefits of employees to whom the Scheme applies under this Act.
- (2) The Scheme established under subsection (1) of this section shall apply to all employees in the Public Service of the Federation, the Federal Capital Territory, States, Local Governments and the Private Sector subject to the provisions of section 5 of this Act.
4. (1) The contribution for any employee to which this Act applies shall be made in the following rates relating to his monthly emoluments -
- (a) a minimum of ten per cent by the employer; and
  - (b) a minimum of eight per cent by the employee.
- (2) The rates of contribution mentioned in subsection (1) of this section may, upon agreement between any employer and employee, be revised upwards, from time to time, and the Commission shall be notified of such revision.
- (3) Any employee to whom this Act applies may, in addition to the total contributions being made by him and his employer, make voluntary contributions to his retirement savings account.
- (4) Notwithstanding any of the provisions of *this Act*, an employer may agree -
- (a) on the payment of additional benefits to the employee upon retirement; or



- (b) elect to bear the full responsibility of the Scheme provided that in such a case, the employer's contribution shall not be less than 20 percent of the monthly emoluments of the employee.
- (5) In addition to the rates specified in subsection (1) of this section, every employer shall maintain a Group -Life- Insurance -Policy- in- favour -of- each employee for a minimum of three times the annual total emolument of the employee and premium shall be paid not later than the date of commencement of the cover.
- (6) Where the employer failed, refused or omitted to make payment as and when due, the employer shall make arrangement to effect the payment of claims arising from the death of any staff in its employment during such period.
- (7) Subject to such guidelines as may be *issued*, from *time* to time by the Commission, the categories of persons covered under section 2(3) of this Act or persons exempted under section 5 of this Act shall be entitled to make voluntary contributions under the Scheme.

#### Exemption from the Scheme.

5. (1) The categories of persons exempted from the Contributory Pension Scheme are -

- (a) the categories of persons mentioned in section 291 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) including members of the Armed Forces, the intelligence and secret services of the Federation;
  - (b) any employee who is entitled to retirement benefits under any pension scheme existing before the 25th day of June 2004, being the commencement of the Pension Reform Act, 2004, but as at that date had 3 or less years to retire.
- (2) Any person who falls within the provisions of subsection (1) of this section shall continue to derive benefit under existing pension scheme in accordance with the formula provided for in the Second Schedule to this Act or under the Second schedule provisions of enabling laws.
  - (3) Nothing in this Act shall preclude the right of any person mentioned in subsections (1) and (2) of this section to be paid his pension as and when due.
  - (4) Where an officer exempted under section 5(1)(b) of this section dies in service or in the course of duty, the Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate shall cause to be paid, en bloc, his next of-kin or designated survivors a gratuity and pension to which the officer would have been entitled at the date of his death calculated in accordance with section 46 of this Act.
  - (5) Where an officer exempted under this section is retired by his employer as a result of mental or physical incapacity, the officer shall be paid gratuity and pension in accordance with section 46 of this Act.
  - (6) For the .purpose of subsection (5) of this section; a properly constituted medical: - board shall advise the employer on the officer's state of incapacity.

#### Supervision of retirement benefits of employees exempted from the Scheme.

6. (1) The administration of the retirement benefits of the categories of employees exempted from the Scheme under section 5(1)(b) of this Act shall be subject to the supervision and regulation of the Commission.
- (2) In the case of professors covered by the Universities (Miscellaneous Provisions) (Amendment) Act, 2012 and category of political appointees entitled, by virtue of their terms and conditions of employment, to retire with full benefits, the Commission shall issue guidelines to regulate the administration . of their retirement benefits provided that any shortfall shall be funded from budgetary allocations by the employer.
- (3) The Accountant-General of the Federation and the FCT Treasury, as the case may be, subject to the framework developed jointly with the Commission, shall make payments of retirement benefits directly into individual bank accounts of retired persons covered under section 5 (1)(b) of this Act and details of such payment shall be submitted to the Commission and the Pension Transitional Arrangements Directorate of the Federation and Federal Capital Territory established under sections 42 and 44 of this Act respectively.

### PART III - RETIREMENT BENEFITS

#### Retirement benefits.

7. (1) A holder of a retirement savings account shall, upon retirement or attaining the age of 50 years, whichever is later, utilize the amount credited to his retirement savings account for the following benefits -
  - (a) withdrawal of a lump sum from the total amount credited to his retirement savings account provided that the amount left after the Jump sum withdrawal shall be sufficient to procure a programmed fund withdrawals or annuity for life in accordance with extant guidelines issued by the Commission, from time totime;
  - (b) programmed monthly or quarterly withdrawals calculated on the basis of an expected life span;
  - (c) annuity for life purchased from a life insurance company licensed by the National Insurance Commission with monthly or quarterly payments in line with guidelines jointly issued by the Commission and National Insurance Commission;
  - (d) professors covered by the Universities (Miscellaneous Provisions (Amendment) Act, 2012 shall be according to the University Act; or
  - (e) other categories of employees entitled, by virtue of their terms and conditions of employment, to retire with full retirement benefits shall still apply.
- (2) Where an employee voluntarily retires, disengages or is disengaged from employment as provided for under section 16(2) and (5) of this Act, the employee may with the approval of the Commission, withdraw an amount of money not exceeding 25 per cent of the total amount credited to his retirement savings account, provided that such withdrawals shall only be made after four months of such retirement or cessation of employment and the employee does not secure another employment.

- (3) Where an employee has accessed the amount standing in his retirement savings account pursuant to subsection (2) of *this* section, such employee shall subsequently access the balance in the retirement savings account in accordance with subsection (1) of this section.

Death of an employee.

8. (1) Where an employee dies, his entitlements under the life insurance policy maintained under section 4 (5) of this Act shall be paid by an underwriter to the named beneficiary in line with section 57 of the Insurance Act.
- (2) Upon receipt of a valid Will admitted to Probate or a letter of administration confirming the beneficiaries under the estate of the deceased employee, the pension fund administrator shall, with the approval of the Commission, release the amount standing in the retirement savings account of the deceased to the personal representative of the deceased or to any other person as may be directed by a court of competent jurisdiction, in accordance with the terms of the Will or the personal law of the deceased employee, as the case may be.

Missing employees.

9. Where an employee is missing and is not found within a period of one year from the date he was declared missing, and a board of inquiry set up by the Commission makes a determination that having regards to available information and all relevant circumstances, it is reasonable to presume that the employee is dead, the provisions of section 8 of this Act shall apply.

Exemption from taxes.

10. (1) Notwithstanding the provisions of any other law, contributions to the Scheme under this Bill shall form part of tax deductible expenses in the computation of tax payable by an employer or employee under the relevant income tax law.
- (2) All interests, dividends, profits, investment and other income accruable to pension funds and assets under this Act shall not be taxable.
- (3) Any amount payable as a retirement benefit under this Act shall not be taxable.
- (4) Without prejudice to the provisions of subsection (2) of this section, any income earned on any voluntary contribution made under section 4 (3) of this Act shall be subject to tax at the point of withdrawal where the withdrawal is made before the end of 5 years from the date the voluntary contribution was made.

#### PART IV - RETIREMENT SAVINGS ACCOUNT

Retirement savings account and remittance of contributions.

11. (1) Every employee to whom this Act applies shall maintain an account, (in this Act referred to as "Retirement Savings Account") in his name with any Pension Fund Administrator of his choice.
- (2) The employee shall notify his employer of the Pension Fund Administrator chosen and the identity of the retirement savings account opened under subsection (1) of this section.
- (3) The employer shall:-
  - (a) deduct at source the monthly contribution of the employee; and
  - (b) not later than 7 working days from the day the employee is paid his salary, remit an amount comprising the employee's contribution under paragraph (a) of this subsection and the employer's contribution to the Pension Fund Custodian specified by the Pension Fund Administrator of the employee.
- (4) Upon receipt of the contributions remitted under subsection (3) (b) of this section, the Pension Fund Custodian shall notify the Pension Fund Administrator who shall cause to be credited the retirement savings account of the employee for whom the employer had made the payment.
- (5) Where an employee fails to open such Retirement Savings Account within a period of six months after assumption of duty, his employer shall, subject to guidelines issued by the Commission, request a Pension Fund Administrator to open a nominal retirement savings account for such employee for the remittance of his pension contributions.
- (6) An employer who fails to deduct or remit the contributions within the time stipulated in subsection (3) (b) of this section shall, in addition to making the remittance already due, be liable to a penalty to be stipulated by the Commission.
- (7) The penalty referred to in subsection (6) of this section shall not be less than 2 percent of the total contribution that remains unpaid for each month or part of each month the default continues and the amount of the penalty shall be recoverable as a debt owed to the employee's retirement savings account, as the case may be.
- (8) An employee shall not have access to his retirement savings account or have any dealing with the Pension Fund Custodian with respect to the retirement savings account except through the Pension Fund Administrator.
- (9) The Commission shall determine the cost of recovery of unremitted contributions and the sources to defray the cost, which may include the amount recovered as penalty pursuant to subsection (6) of this section.

Contributions of the Federal Government and Federal Capital Territory Administration.

12. (1) The contributions of the Federal Government to the retirement benefits of employees of the Public Service of the Federation under section 11 (3) of this Act shall be a charge on the Consolidated Revenue Fund of the Federation.
- (2) The contributions of the Federal Capital Territory Administration to the retirement benefits of employees of the Federal Capital Territory under section 11 (3) of this Act shall be a charge on the Revenue Fund of the Federal Capital Territory.

- (3) The Accountant-General of the Federation shall make the deductions of the contributions mentioned in subsection (1) of this section.
- (4) The Federal Capital Territory Treasury shall make the deductions of the contributions mentioned in subsection (2) of this section.

Transfer of account from one Pension Fund Administrator to another.

- 13. Subject to guidelines issued by the Commission, a holder of a retirement savings account maintained under this Act may not, more than once in a year, transfer his account from one Pension Fund Administrator to another.

Transfer from one employment to another.

- 14. Where an employee transfers his employment from one employer or organization to another, the same retirement savings account shall continue to be maintained by the employee or be transferred subject to section 13 of this Act.

Transfer of entitlement from defined benefits scheme into the Scheme.

- 15. (1) As from 25 June, 2004, being the commencement of the Pension Reform Act 2004, the accrued pension right to retirement benefits of any employee who is already under any pension scheme existing before the commencement of that Act and has over 3 years to retire shall -
  - (a) in the case of employees of the Public Service of the Federation where the scheme is unfunded, be recognized in the form of an amount acknowledged through the issuance of Federal Government Retirement Benefits Bonds by the Debt Management Office in favour of the employees and the bond issued under this subsection shall be redeemed upon the retirement of the employee in accordance with section 39 of this Act and the amount so redeemed shall be added to the balance of the retirement savings account of the employee and applied in accordance with the provisions of section 7 of this Act;
  - (b) in the case of employees of the Federal Capital Territory where the scheme is unfunded, be recognised in the form of an amount acknowledged through the issuance of a bond to be known as Federal Capital Territory Retirement Benefits Bonds, in favour of the employees and the bond issued under this subsection shall be redeemed upon retirement of the employee in accordance with section 39 of this Act and the amount so redeemed shall be added to the balance in the retirement savings account of the employee and applied in accordance with the provisions of section 7 of this Act; and
  - (c) in the case of the employees of the Public Service of the Federation, Federal Capital Territory or in the Private Sector, where the scheme is funded, credit the Retirement Savings Accounts of the employees with any fund to which each employee is entitled and in the event of an insufficiency of funds to meet this liability the shortfall shall immediately become a debt of the relevant employer and shall have priority over any other claim.

- (2) Where there is such a debt the employer shall immediately issue a written acknowledgement of the debt to the relevant employee and take steps to meet the shortfall and such debt shall not be affected by the by the provisions of any limitation law in force for the time being.
- (3) The employer shall notify the Commission of any written acknowledgment that arises under subsection (1)( c) of this section and any step taken or planned to meet the shortfall.
- (4) The accrued pension rights and entitlements of employees of the Public Service of the Federation as provided for under subsection (1) of this section shall be reviewed by the Federal Government of Nigeria from time to time in line with the provisions of section 173(3) of the Constitution of the Federal Republic of Nigeria J 999 (as amended), provided that the variation so derived from the salary reviews shall be provided by the Federal Government and credited directly into retirement savings account of individual retiree.
- (5) The accrued pension rights and entitlements of employees of the Federal Capital Territory as provided for under subsection (1) of this section shall be reviewed by the Federal Capital Territory from time to time in line with the provisions of section 173(3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), provided that the variation so derived from respective salary reviews shall be provided by the Federal Capital Territory and credited directly into retirement savings account of individual retiree.

#### Withdrawal from retirement savings account.

16. (1) An employee shall not be entitled to make any withdrawal from his retirement savings account opened under section 11 (1) of this Act, before attaining the age of 50 years.
- (2) Notwithstanding the provisions of subsection (1) of this section, any employee who retires, disengages or is disengaged from employment -
  - (a) on the advice of a suitably qualified physician or a properly constituted medical board certifying that the employee is no longer mentally or physically capable of carrying out the functions of his office;
  - (b) due to total or permanent disability either of the mind or body; or
  - (c) before the age of 50 years in accordance with the terms and conditions of his employment, shall be entitled to make withdrawals in accordance with section 7 of this Act.
- (3) Persons who retire under subsection (2) of this section shall be reintegrated into the Scheme upon securing another employment, subject to guidelines to be issued by the Commission from time to time.
- (4) For the purpose of subsection (1) of this section, the authentic age of an employee entering the public service or any other employment shall be that submitted by him on entering the service or taking up the employment.

- (5) Without prejudice to subsection (1) of this section, any employee who disengages or is disengaged from employment before the age of 50 years and is unable to secure another employment within four months of such disengagement may make withdrawal from his retirement savings account in accordance with the provisions of section 7(2) and (3) of this Act

## **PART V THE NATIONAL PENSION COMMISSION**

Establishment of the National Pension Commission.

17. (1) There is established the National Pension Commission (in this Act referred to as "the Commission").
- (2) The Commission -
- (a) shall be a body corporate with perpetual succession and a common seal; and
  - (b) may sue or be sued in its corporate name.
- (3) The Commission may acquire, hold or dispose of any moveable or immoveable property for the purpose of its functions under this Act.
- (4) The Commission shall have its head office in the capital of the Federal Republic of Nigeria and may open offices and branches in any part of Nigeria as may be approved by the Board.
- (5) The Commission shall report directly to the President of the Federal Republic of Nigeria,

Objects of the Commission.

18. The principal objects of the Commission shall be to -
- (a) enforce and administer the provisions of this Act;
  - (b) co-ordinate and enforce all other laws on pension and retirement benefits; and
  - (c) regulate, supervise and ensure the effective administration of pension matters and retirement benefits in Nigeria.
19. (1) There is established a Governing Board for the Commission (in this Act referred to as "the Board").
- (2) The Board shall consist of -
- (a) a part-time chairman who shall be a fit and proper person with adequate cognate experience in pension matters;
  - (b) the Director-General of the Commission;

- (c) four full-time Commissioners of the Commission;
- (d) a representative each of the following agencies and institutions-
  - (i) Head of the Civil Service of the Federation;
  - (ii) Federal Ministry of Finance;
  - (iii) Nigeria Labour Congress;
  - (iv) Trade Union Congress of Nigeria;
  - (v) Nigeria Union of Pensioners;
  - (vi) Nigeria Employers Consultative Association;
  - (vii) Central Bank of Nigeria;
  - (viii) Securities and Exchange Commission;
  - (ix) Nigerian Stock Exchange; and
  - (x) National Insurance Commission.
- (3) The Chairman, the Director-General and the Commissioners shall be appointed by the President subject to the confirmation by the Senate.
- (4) The Chairman, Commissioners and the Director-General of the Commission shall each represent each of the six geographical zones of Nigeria.
- (5) The Chairman and members of the Board shall not-
  - (a) own controlling shares in any Pension Fund Administrator or Pension Fund Custodian prior to and during their tenure of office as Chairman or members of the Board; or
  - (b) be directors or shareholders *in* any Pension Fund Administrator or Pension Fund Custodian before the expiration of three years after ceasing to be a Chairman or member of the Board.
- (6) The Chairman and each member of the Board shall, within one month of appointment, declare personal shareholding as well as those of his family members or close associates in any Pension Fund Administrator or Pension Fund Custodian, in writing to the Board.
- (7) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters mentioned therein.



Tenure of office.

20. (1) The Chairman and the Director-General shall hold office for a term of five years in the first instance and may be re-appointed for another term of five years and no more.
- (2) A member of the Board other than the Chairman and the Director-General shall hold office for a term of four years in the first instance and may be reappointed for another term of four years and no more subject to the provisions of section 21 (1 )(g) of this Act.
- (3) no account shall a person that has served for two consecutive terms in the Board be re-appointed as to serve for a third succeeding term in the Board.
21. (1) Notwithstanding the provisions of sections 20 and 26 (3) of this Act, a Cessation of office, member of the Board shall cease to hold office as a member of the Board if -
- (a) he resigns his appointment as a member of the Board by a notice, under his hand, addressed to the President;
  - (b) his term of office expires;
  - (c) he dies
  - (d) he becomes of unsound mind;
  - (c) he becomes bankrupt or makes a compromise with his creditors;
  - (d) he *is* convicted of a felony or of any offence involving dishonesty or corruption;
  - (e) he becomes incapable of carrying out the functions of his office either arising from an infirmity of mind or body;
  - (f) he is found to have contravened the provisions of section 19(5) or (6) of this Bill;
  - (g) in the case of an ex-officio member, he ceases to hold the office on the basis of which he became a member of the Board; or
  - (h) the President is satisfied that it is not in the interest of the Commission or public for the person to continue in office and notifies the member in writing to that effect
- (2) In the event of a vacancy, the President shall appoint a replacement from the geo-political zone of the immediate past member that vacated office to complete the remaining tenure.
22. The Chairman and other members of the Board shall be paid such emoluments, Emoluments. allowances and incidental expenses as may be determined by the appropriate Agency of the Federal Government of Nigeria, from time to time.

## **PART VI - FUNCTIONS AND POWERS OF THE COMMISSION**

Functions of the Commission.

23. The Commission shall - Commission.

- (a) regulate and supervise the Scheme established under this Act and other pension schemes in Nigeria.
- (b) issue guidelines, rules and regulations for the investment and administration of pension funds;
- (c) approve, license, regulate and supervise pension fund administrators, custodians and other institutions relating to pension matters as the Commission may, from time to time, determine;
- (d) establish standards, benchmarks, guidelines, procedures, rules and regulations for the management of the pension funds under this Act;
- (e) ensure the maintenance of a national data bank on pension matters;
- (f) carry out public awareness, enlightenment and education on the establishment, operations and management of the Scheme;
- (g) promote capacity building and institutional strengthening of Pension Fund Administrators and Pension Fund Custodians;
- (h) receive, investigate and mitigate complaints of impropriety made against any Pension Fund Administrator, custodian, employer, staff or agent;
- (i) promote and offer technical assistance in the application of the contributory pension scheme by the States and Local Government Councils in accordance with the objectives of this Act; and
- (j) perform such other duties which, in the opinion of the Commission, are necessary or expedient for the discharge of its functions under this Act.

24. The Commission shall have the power to -

- (a) formulate, direct and oversee the overall policy on pension matters in Nigeria;
- (b) fix the terms and conditions of service and remuneration of the employees of the Commission;
- (c) request or call for information from any employer or Pension Fund Administrator or Pension Fund Custodian or any other person or institution on matters relating to retirement benefits;
- (d) charge and collect such fees, levies or penalties, as may be necessary for the provision of services under this Act;
- (e) establish and acquire offices and other premises for the use of the Commission in such locations as it may deem necessary for the proper performance of its functions under this Act;

- (f) investigate any Pension Fund Administrator, Pension Fund Custodian or other party involved in the management of pension funds;
- (g) impose administrative or civil sanctions or fines on erring employers or Pension Fund Administrators or Pension Fund Custodians;
- (h) order the transfer of management or custody of all pension funds or assets being managed by a Pension Fund Administrator or held by a Pension Fund Custodian whose licence has been revoked under this Act or subject to insolvency proceedings to another Pension Fund Administrator or Pension Fund Custodian, as the case may be;
- (i) move pension funds and assets from one Pension Fund Administrator or Pension Fund Custodian to another when the Commission believes that the funds and assets are endangered;
- (j) appoint Management Committee in the resolution of failing pension operators;
- (k) accredit any person, body corporate or institution that engages in any activity relating to pension matters in Nigeria pursuant to this Act;
- (l) request the Accountant-General of the Federation to credit into the Federal Government Retirement Fund Account, Federal Government's obligation for the redemption of the Retirement Benefits Bonds issued to its employees for their past service; and
- (m) set up technical committees, working groups and task forces to assist the Commission in the performance of its duties and functions under this Act;
- (n) make changes to its structure with the approval of the Board; and
- (o) do such other things which in its opinion are necessary to ensure the efficient performance of the functions of the Commission under this Act.

#### Functions and Powers of the Board

25. (1) The Board shall -

- (a) formulate and provide general policy guidelines for the discharge of the functions of the Commission;
- (b) monitor and ensure the implementation of the policies and programmes of the Commission; and
- (c) carry out such other functions as are necessary or expedient to ensure the efficient performance of the functions of the Commission under this Act.

(2) The Board shall have power to-

- (a) approve rules and regulations relating to the appointment, promotion and disciplinary measures for the employees of the Commission;
- (b) fix the remuneration, allowances and benefits of the employees of the Commission; and
- (c) regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters as the Board may, from time to time determine.

## **PART VII - MANAGEMENT AND STAFF OF THE COMMISSION**

Appointment and tenure of the Director-General and Commissioners.

26. (1) There shall be for the Commission, a Director - General who shall be appointed by the President subject to confirmation by the Senate.
- (2) The Director-General shall-
- (a) be the chief executive and accounting officer of the Commission (b) be responsible for the day-to-day administration of the Commission;
  - (c) keep the books and records of the Commission; and
  - (d) possess relevant and adequate professional qualification in pension matters with 15 years cognate experience.
27. (1) There shall be for the Commission, a Secretary and Legal Adviser who shall -
- (a) be appointed by the Commission;
  - (b) be responsible to the Director-General and the Board;
  - (c) be responsible for -
    - (i) taking the minutes of meetings of the Board;
    - (ii) keeping the corporate records of the Commission and conducting the correspondences of the Board;
    - (iii) issuing notices for the meetings of the Board;
    - (iv) keeping in safe custody, the common seal, documents and agreements of the Commission;
  - (d) be in-charge of the Legal Department of the Commission; and
  - (e) perform such other duties as may be assigned to him, from time to time, by the Board or the Director-General.
- (2) The Secretary shall possess adequate professional qualifications skills and cognate experience as a legal practitioner.

Other staff of the Commission.

28. (1) The Commission may, from time to time, appoint such other category of employees as may appear to it expedient and necessary for the proper and efficient performance of its functions under this Act.
- (2) The staff of the Commission shall be public officers as defined in the Constitution of the Federal Republic of Nigeria.
- (3) The staff of the Commission appointed under subsection (1) of this section shall be appointed on such terms and conditions of service as the Commission may determine.
- (4) The Commission may make rules relating generally to the conditions of service of employees of the Commission, and without prejudice to the generality of the foregoing, the rules may provide for -
- (a) the appointment, promotion and disciplinary control of all employees of the Commission;
  - (b) appeals by employees against disciplinary measures; and
  - (c) such other matters to ensure the efficient performance of the functions of the Commission wider this Act.

Service in the Commission.

29. Service in the Commission shall be public service for the purpose of this Act and accordingly, officers and other staff of the Commission shall, in respect of their service in the Commission, be entitled to such pension and retirement benefits as are prescribed in this Act.

Establishment of Departments, Divisions and Special Units.

30. There shall be established for the Commission Departments, Divisions and Special Units as may be approved by the Board, from time to time.

Executive Committee of the Commission.

31. There shall be an Executive Committee of the Commission consisting of the Director- General and four Commissioners.

## **PART VIII-FINANCIAL PROVISIONS**

Fund of the Commission

32. (1) The Commission shall establish and maintain a fund into which shall be paid or credited -
- (a) take off grants, annual subventions and budgetary allocations received from the Government of the Federation;
  - (b) monies as may be appropriated to the Commission, from time to time, by the National Assembly;

- (c) monies as may, from time to time, be lent, deposited with or granted to the Commission by the Government of the Federation, States or Local Governments;
  - (d) fees, fines, charges and commissions made by the Commission;
  - (e) income from any investment made by the Commission;
  - (f) grants, gifts or donations from international organizations and donor agencies;
  - (g) all sums of money or income accruing to the Commission by way of testamentary dispositions and endowments; and
  - (h) other funds which may, from time to time, accrue to the Commission.
- (2) The Fund established under subsection (1) of this section shall be managed in accordance with extant Financial Regulations applicable in the Public Service of the Federation.
- (3) The Commission shall be exempted from the payment of income tax under the Companies Income Tax Act or any other levies, duties or contributions that may be imposed by law or regulations.

Expenditures of the Commission.

33. The Commission may, from time to time, apply the proceeds of the fund established under section 32(1) of this Act for the following purposes-
- (a) the cost of administration and operations of the Commission;
  - (b) the reimbursement of members of any committee set up by the Commission or the Board for such expenses as may be authorized in accordance with the rates approved by the Government of the Federation;
  - (c) the payments of salaries, fees and other remunerations or allowances, payable to employees, experts or professionals appointed by the Commission;
  - (d) the maintenance of any property acquired or vested in the Commission; and
  - (e) any matter connected with all or any of the functions of the Commission under this Act.
34. The Commission shall, not later than the 30th day of September in each year or Annual estimates, any such time as may be required by the Financial Regulations, prepare an estimate of its income and expenditure for the next succeeding year.
35. (1) The financial year of the Commission shall start on the 1st day of January of Accounts and audit. each year and end on the 31st day of December of the same year or any such time as may be prescribed by Financial Regulations issued by the Federal Government of Nigeria, from time to time.

- (2) The Commission shall keep proper accounts and records of its receipts, payments, assets and liabilities in respect of each year in manual and electronic devices and shall cause the accounts to be audited within three months from the end of each financial year by an auditor appointed from the list and in accordance with guidelines issued by the Auditor-General for the Federation.
- (3) An auditor appointed pursuant to subsection (2) of this section shall have access to all records relating to the accounts which are kept by the Commission or its agents and shall have the power to require from any employee or agent of the Commission such information and explanation as in the auditor's opinion are necessary for the purpose of the audit.
- (4) Any employee or agent of the Commission who fails, without reasonable cause, to comply with a request or instruction of an auditor pursuant to subsection (3) of this section shall be guilty of an offence and is liable on conviction to a fine of N500,000.00 or 6 months imprisonment or both fine and imprisonment.

Annual report.

36. (1) The Commission shall, not later than four months after the end of each year, submit to the President and the Public Account Committee of the National Assembly a report on the activities and administration of the Commission during the immediately preceding year and shall include in such report the audited accounts of the Commission and the auditors' report thereon for the preceding year.
  - (2) Without prejudice to subsection (1) of this section, the Commission may submit such other reports to the President on matters of expediency or urgency relating to its functions under this Act.
  - (3) The Commission shall, not later than six months after the end of each year, publish the annual report prepared under subsection (1) of this section in at least three national newspapers circulating in Nigeria.
37. The Commission may, with the approval of the President, borrow money by way Power to borrow, of overdraft or loan for the purpose of carrying out its functions under this Act.
38. (1) The Commission may accept gift of land, money or other property or things on Power 10 accept gift such terms and conditions, if any, as may be specified by the person or organization making the gift.
  - (2) The Commission shall not accept any such gift where the terms or conditions attached by the person or organization making the gift are inconsistent with the objectives and functions of the Commission, under this Act.

## **PART IX - TRANSITIONAL PROVISIONS FOR THE PUBLIC SECTOR**

Federal Government Retirement Benefit Bond Redemption Fund.

39. (1) The Central bank of Nigeria shall establish, invest and manage a fund to be known as the Federal Government Retirement Benefit Bond Redemption Fund (in this Act referred to as "the Redemption Fund ") in respect of the Federal public service.

- (2) The Federal Government shall pay into the Redemption Fund an amount not less than 5% of the total monthly wage bill payable to employees in the Public Service of the Federation.
- (3) Without prejudice to subsection (2) of this section, the Commission shall by the end of every calendar year, determine the adequacy of the Redemption Fund against the projected pension liability of Government arising from voluntary and mandatory retirements, death of employees in service and the right of pensioners to pension review in line with section 173(3) of the 1999 Constitution (as amended), and advise the Budget Office of the Federation of shortfall, if any.
- (4) The Budget Office of the Federation shall, on receipt of advice from the Commission pursuant to subsection (3) of this section, ensure adequate appropriation for the shortfall and subsequent payment.
- (5) The amount in the Redemption Fund shall be used by the Central Bank of Nigeria, as prescribed by the Commission, to redeem any retirement benefit bonds issued pursuant to section 15 (1) (a) of this Act.
- (6) Payments into the Redemption Fund shall cease after all the retirement benefit bonds issued under section 15 (1) (a) of this Act have been redeemed.

Government obligation to be a charge on the Consolidated Revenue Fund.

40. (1) Government obligation to the Federal Government Retirement Benefits Redemption Fund shall be a charge on the Consolidated Revenue Fund of the Federation.
- (2) The Accountant-General of the Federation shall effect the deductions and payment into the Redemption Fund specified in subsection (1) of this section.

Federal Capital Territory Retirement Benefits Bond Redemption fund.

41. (1) There shall be opened in the Central Bank of Nigeria, an account for the management and investment of funds to be known as the Federal Capital Territory Retirement Benefits Bond Redemption Fund (in this Act referred to as "the Federal Capital Territory Redemption Fund") in respect of the Federal Capital Territory.
- (2) The Federal Capital Territory shall pay into the Redemption Fund an amount not less than 5 % of the total monthly wage bill payable to employees in the service of the Federal Capital Territory provided that the Commission shall, by the end of every calendar year, determine the adequacy of the Redemption Fund against the projected pension liability of the Federal Capital Territory arising from normal, voluntary and mandatory retirements and death of shortfall, if any.
- (3) The Federal Capital Territory Treasury shall, on receipt of advice from the Commission pursuant to subsection (2) of this section, ensure adequate appropriation for the shortfall and subsequent payment.
- (4) The amount in the Federal Capital Territory Redemption Fund shall be use by the Central Bank of Nigeria, as prescribed by the Commission, to redeem any retirement benefit bonds issued pursuant to section 15 (1) (b) of this Act.



- (5) The obligation of the Federal Capital Territory to the Federal Capital Territory Retirement Benefits Redemption Fund shall be a charge on the Revenue Fund of the Federal Capital Territory,
- (6) The Commission shall, upon the failure of the Federal Capital Territory to redeem any bond issued within one month of its due date, demand such redemption in writing from the Federal Capital Territory,
- (7) Upon the failure of the Federal Capital Territory to redeem the bond within one month of the receipt of the Commission's demand, the Commission shall issue a request to the Accountant - General of the Federation who shall thereafter deduct directly from the Federal Capital Territory allocation from the Federation Account, the value of the bond and credit either the Redemption Fund Account with the Central Bank of Nigeria or the Retirement Savings Account maintained by the affected employee with his Pension Fund Administrator.
- (8) Payments into the Redemption Fund shall cease after all the retirement benefit bonds issued under section 15 (1) (b) of this Act have been redeemed

Establishment of Pension Transitional Arrangements Directorate for the Public Service of the Federation.

42. (1) There is established for the Public Service of the Federation, the Federal Government Pension Transitional Arrangements Directorate (in this Act referred to as "Pension Transitional Arrangements Directorate").
- (2) The Federal Government Pension Transitional Arrangements Directorate shall be an extra Ministerial Department under the Federal Ministry of Finance with management team to be appointed by the Minister.
- (3) The Pension Transitional Arrangements Directorate shall be headed by an Executive Secretary and shall be made up of representatives of the following Departments -
  - (a) the Civil Service Pension Department;
  - (b) the Police Pension Department;
  - (c) the Customs, Immigration and Prison Pension Department;
  - (d) the Treasury Funded Parastatals Pension Department;
  - (e) the Pensioner Service Department;
  - (f) the Information Technology Department; and
  - (g) the Support Services Department .
- (4) The Pension Transitional Arrangements Directorate shall also comprise of other relevant Departments as may be determined by the Commission, from time to time.

Miscellaneous provisions relating to Transitional Arrangements Directorate for the Public Service of the Federation.

43. (1) The Pension Transitional Arrangements Directorate may, from time to time, appoint such other category of employees as may appear to it expedient and necessary for the proper and efficient performance of its functions under this Act.
- (2) The Pension Transitional Arrangements Directorate shall fix and pay its employees such remuneration, allowances and other benefits as it may determine from time to time, subject to the approval of the Minister of Finance.
- (3) The Pension Transitional Arrangements Directorate may make rules relating generally to the condition of service of its employees including the appointment, promotion and disciplinary control of all its employees.
- ( 4) The expenses of the Pension Transitional Arrangements Directorate shall be defrayed from its fund, which shall consists of the initial take-off grant, and annual subvention from the Federal Government as well as other assets and monies that may, from time to time, accrue to it.

Establishment of Pension Transitional Arrangements Directorate for the Federal Capital Territory.

44. (1) There is established for the Federal Capital Territory, a Federal Capital Territory Pension Transitional Arrangements Directorate (in this Act referred to as "the Federal Capital Territory Pension Transitional Arrangements Directorate").
- (2) The Federal Capital Territory Pension Transitional Arrangements Directorate shall be a Directorate under the Federal Capital Territory Administration.
- (3) The Federal Capital Territory Pension Transitional Arrangements Directorate shall be headed by an Executive Secretary, not below the level of a Director, and shall be made up of the following Departments to be represented by an officer not below the rank of a Director –
  - (a) the Federal Capital Territory Pension Department;
  - (b) the Area Councils Pension Department;
  - ( c) the Pensioner Service Department;
  - (d) the Information Technology Department; and
  - (e) the Support Services Department.
- (4) The Federal Capital Territory Pension Transitional Arrangements Directorate shall also comprise of other relevant Departments as may be determined by the Minister of the Federal Capital Territory, from time to *time*.

- (5) The Federal Capital Territory Pension Transitional Arrangements Directorate shall fix and pay its employees such remuneration, allowances and other benefits as it may determine, from time to time as may appear to it expedient and necessary for the proper and efficient performance of its functions under this Act.
- (6) The Federal Capital Territory Pension Transitional Arrangements Directorate shall fix and pay its employees such remuneration, allowances and other benefits as it may determine, from time to time, subject to the approval of the Minister of the Federal Capital Territory.
- (7) The expenses of the Federal Capital Territory Pension Transitional Arrangement Directorate shall be defrayed from its Fund, which shall consist of the initial take-off grant and annual subvention from the Federal Capital Territory as well as other assets and monies that may, from time to time, accrue to it.

Functions of the Federal Government and Federal Capital Territory Pension Transitional Arrangements Directorates.

45. The Federal Government and Federal Capital Territory Pension Transitional Arrangements Directorates shall, respectively, carry out the existing functions of the relevant pension boards or offices in the Public Service of the Federation and Federal Capital Territory and shall in particular-
  - (a) make budgetary estimates for existing pensioners and the officers exempted from this Scheme under section 5(1)(b) of this Act;
  - (b) prepare and submit the monthly payroll of pensioners to the office of the Accountant - General of the Federation for direct payment from the budgetary allocation maintained with the Central Bank of Nigeria to pensioners' bank accounts;
  - (c) issue payment instructions to the office of the Accountant-General of the Federation;
  - (d) maintain a comprehensive database of pensioners under their respective jurisdiction;
  - (e) ascertain deficits in pension payments, if any, to existing pensioners or the categories of officers exempted under section 5(1)(b) of this Act, and carry out such other functions aimed at ensuring the welfare of pensioners as the Commission may, from time to time, direct; and
  - (f) render monthly returns to the Commission on existing staff, pensioners, deceased pensioners, details of next of kin of deceased pensioners and on any other issue as may be required by the Commission, from time to time.

Determination of gratuity and pension of exempted pensioners.

46. The Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate shall determine and cause to be paid gratuity and pension to the pensioners in the category of officers exempted under section 5(1)(b) of this Act, in accordance with the provisions of section 5 (2) of this Act and relevant and applicable computations under the existing Pay-As-You-Go Pension Scheme of the Public Service of the Federation and Federal Capital Territory.

Transfer of assets of the pension offices existing before this Act.

47. As from the commencement of this Act, the responsibilities, funds, assets or liabilities of all pension offices in the Public Service of the Federation and the Federal Capital Territory existing before the commencement of this Act shall be vested in the Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate respectively as provided under this Act to cover for category of those exempted under section 5(1)(b) of this Act.
- (2) All funds meant for payment of pension or retirement benefits with all pension offices shall be transferred to the Central Bank of Nigeria for use by the Accountant-General of the Federation for the payment of pension.

Power of the Commission to regulate and supervise the Federal Government and Federal Capital Territory Pension Transitional Arrangements Directorates.

- 48 (1) The Commission shall regulate and supervise the activities of the Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate to ensure compliance with the provisions of this Act.
- (2) The Commission shall, at the directive of the President of the Federal Republic intervene to administer and render technical support and advice on the management of the various Pension Transition Administration Directorates.
- (3) The Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate shall operate under the rules, regulations and directives issued by the Commission from time to time,

Cessation of the Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate.

49. The Federal Government Pension Transitional Arrangements Directorate and the Federal Capital Territory Pension Transitional Arrangements Directorate shall cease to exist after the death of the last pensioner or employee entitled to pension as specified under sections (1) (b) of this Act.

#### **PART X - TRANSITIONAL PROVISIONS FOR PRIVATE SECTOR**

50. (1) Notwithstanding any other provisions of this Act, any pension scheme in the private sector existing before the commencement of this Act may continue to exist provided that -
- (a) the pension scheme shall be fully funded and in case of any defined contribution scheme, contributions in favour of each employee including the attributable income shall be computed and credited to a retirement savings account opened for the employee.
- (b) the pension funds and assets shall be fully segregated from the funds and assets of the company;

- (c) the pension funds and assets shall be held by a custodian;
  - (d) every employee in the existing scheme shall be free to exercise the option of coming under the Scheme established under section 3 of this Act and his employer shall compute and credit to his account, his contributions and distributable income earned as at the date the employee exercises such an option subject to the regulations, rules and standards established by the Commission;
  - (e) any amount computed under paragraph (d) of this subsection shall be transferred to the retirement savings account of the employee maintained with a pension fund administrator of his choice;
  - (f) all investments in assets other than those specified as permissible investment for pension funds and assets under section 86 of this Act may be maintained and from the commencement of this Act all investments shall be subject to the regulation, rules and standards established by the Commission;
  - (g) 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 or as may be prescribed by the Commission; and
  - (h) the existing scheme shall be closed to new employees and such new employees shall be required to open a retirement savings account.
- (2) An employer operating any defined benefits scheme shall undertake, at the end of every financial year, an actuarial valuation to determine the adequacy of his pension fund assets.
- (3) Nothing in this section shall preclude the right of any person who has retired before the commencement of this Act and is receiving benefits from any pension scheme in the private sector from receiving his pensions as and when due in accordance with the provisions of the Trust Deed and Rules of the Scheme.
- (4) The management and custody of the pension funds for the category of pensioners referred to in subsection ( 4) of this section shall be undertaken by licensed Pension Fund Administrators and Pension Fund Custodians respectively.

Closed Pension Fund Administrator.

51. Subject to the provisions of this Act and any regulation issued by the Commission, Closed Pension Fund Administrators licensed by the Commission before the commencement of this Act may continue to exist provided that new employees of sponsor companies shall join the Contributory Pension Scheme and open Retirement Savings Account.

The Commission to regulate closed pension administrator.

52. Subject to section 51 of this Act; every closed pension fund administrator shall be—
- (a) subject to supervision and regulation by the Commission; and

- (b) deemed to be pension fund administrator, and all provisions in this Act relating to the conduct and operations of a pension fund administrator shall apply to it.

Funds with Nigeria Social Insurance Trust Fund.

- 53. (1) The Nigeria Social Insurance Trust Fund shall continue to maintain the company it established under the Pension Reform Act, 2004 to undertake the business of a Pension Fund Administrator in accordance with this Act.
- (2) The funds contributed to the Nigeria Social Insurance Trust Fund by any person before the registration of a pension fund administrator under this Act including any attributable income thereof not required for the purpose of administering minimum pension as determined by the Commission shall be computed and credited into the respective retirement savings accounts opened under this Act by each contributor or beneficiary of the contributions made under the Nigeria Social Insurance Trust Fund Act.
- (3) Where a person who contributed any fund under the Nigeria Social Insurance Trust Fund Act has retired before the commencement of this Act, the funds due to him shall be paid to him in accordance with section 7 of this Act or in lump sum in accordance with the rules and regulations of the Commission.
- (4) Where a person who contributed any fund under the Nigeria Social Insurance Trust Fund Act has died before the commencement of this Act, the estate or beneficiary of the deceased shall be paid the entitlement of such deceased person subject to the provisions of the Nigeria Social Insurance Trust Fund Act.
- (5) All pension funds and assets held and managed by the Nigeria Social Insurance Trust Fund shall, pursuant to rules made by the Commission, be transferred to a Pension Fund Custodian or Administrator.
- (6) The Commission shall directly supervise the transfer of funds pursuant to subsection (4) of this section and all necessary payments under this section.

## **PART XI - PENSION FUND ADMINISTRATORS AND PENSION FUND CUSTODIANS**

Pension Fund Administrators.

- 54. From the commencement of this Act, pension funds shall only be managed by Pension Fund Administrators licensed by the Commission under this Act.

Functions of Pension Fund Administrators.

- 55. A Pension Fund Administrator licensed under this Act shall -
  - (a) open Retirement Savings Account for all employees with a Personal Identity Number (PIN) attached;
  - (b) invest and manage pension funds and assets in accordance with the provisions of this Act;
  - (c) maintain books of account on all transactions relating to pension funds managed by it;

- (d) provide regular information on investment strategy, market returns and other performance indicators to the Commission and employees or beneficiaries of the retirement savings accounts;
- (e) provide customer service support to employees· including access to employees account balances and statements on demand;
- (f) cause to be paid retirement benefits to holders of retirement savings account in accordance with the provisions of this Act;
- (g) be responsible for all calculations in relation to retirement benefits; and
- (h) carry out other functions as may be directed, from time to time, by the Commission.

#### Pension fund Custodians.

56. From the commencement of this Act, pension funds and assets shall only be held by pension funds custodians licensed by the Commission under this Act.

#### Functions of Pension Fund Custodians.

57. A Pension Fund Custodian shall -

- (a) receive the total contributions remitted by the employer under section 11 of this Act on behalf of the Pension Fund Administrator and credit the account of the pension funds administrator immediately;
- (b) notify the Pension Fund Administrator within 24 hours of the receipt of contributions from any employer;
- (c) hold pension funds and assets in safe custody on trust for the employee and beneficiaries of the retirement savings account;
- (d) on behalf of the Pension Fund Administrator, settle transactions and undertake activities relating to the administration of pension fund investments including the collection of dividends, bonus) rental income, commissions and related activities;
- (e) report to the Commission on matters relating to the assets being held by it on behalf of any Pension Fund Administrator at such intervals as may be determined, from time to time, by the Commission;
- (f) undertake statistical analysis on the investments and returns on investments with respect to pension funds in its custody and provide data and information to the Pension Fund Administrator and the Commission;
- (g) execute in favour of the Pension Fund Administrator relevant proxy for the purpose of voting in relation to the investments; and.
- (h) carry out other functions as may be prescribed by regulations and guidelines issued by the Commission, from time to time.

Application for a licence as Pension Fund Administrator.

58. (1) A person proposing to operate as a Pension Fund Administrator shall apply to the Commission for a licence in such form and with the payment of such fees as may be prescribed by the Commission from time to time.
- (2) The Commission may, if satisfied that the applicant meets the requirements set out in section 60 of this Act, issue a licence to the applicant to operate as a Pension Fund Administrator subject to such terms and conditions as the Commission may consider expedient and necessary in the circumstances.

Operating as Pension Fund Administrator or Pension Fund Custodian without licence.

59. (1) A person who contravenes the provisions of sections 54 and 56 of this Act commits an offence and is liable on conviction to a fine of not less than N10,000,000.00 or to a term of not less than 10 years imprisonment or to both such fine and imprisonment; or
- (2) A corporate body who contravenes the provisions of sections 54 and 56 of this Act commits an offence and is liable on conviction to a fine of not less than N50, 000,000.00 and in addition, the directors or officers shall each be liable to a fine of not less than N5, 000,000 or to a term of not less than 10 years imprisonment or to both such fine and imprisonment.
- (3) In addition to the penalty prescribed in subsections (1) and (2) of this section, the Court may order for the forfeiture of the proceeds of the contravention of the offence established under this section.

Requirements for licence as a Pension Fund Administrator.

60. (1) An application for licence to operate as a Pension Fund Administrator shall not be granted unless the applicant -
- (a) is a limited liability company incorporated under the Companies and Allied Matters Act whose object is to manage pension funds;
  - (b) has a minimum paid up share capital of such sum as maybe prescribed, from time to time, by the Commission;
  - (c) satisfies the Commission that it has the professional capacity to manage pension funds and administer retirement benefits;
  - (d) has never been a manager or administrator of any fund which was mismanaged or has been in distress due to any fault, either fully or partially, of the Pension Fund Administrator or any of its subscribers, directors or officers;
  - (e) undertakes to the satisfaction of the Commission, that it shall not be engaged in any business other than the management of pension funds; and
  - (f) satisfies any additional requirement or condition as may be prescribed, from time to time; by the Commission.



- (2) All companies and institutions already engaged in the management of pension funds who are not licensed by the Commission shall, at the commencement of this Act, compute and credit all contributions to the Retirement Savings Account opened by them for each contributor including distributable income.
- (3) All companies and institutions referred to in subsection (2) of this section shall transfer all pension funds and assets held by them to Pension Fund Administrators and Pension Fund Custodians as may be determined by the Commission,
- (4) Pursuant to the provisions of section 116 of the Companies and Allied Matters Act, the voting rights of every shareholder in a Pension Fund Administrator or Pension Fund Custodian shall be proportionate to his contribution to the paid-up share capital of the Pension Fund Administrator or Pension Fund Custodian.

Application for licence as Pension Fund Custodian.

61. (1) A person proposing to act as a custodian of pension funds shall apply to the Commission for a licence in such form with the payment of such fees as may be prescribed by the Commission, from time to time.
- (2) The Commission may, if satisfied that the applicant meets the requirements set out in section 62 of this Act, issue a licence to the applicant to carry out the functions of a Pension Fund Custodian prescribed under section 46 of this Act.

Requirements for a licence as Pension Fund Custodian.

62. Application for license to act as a Pension Fund Custodian shall not be approved by the Commission unless such applicant -
  - (a) is a limited liability company incorporated under the Companies and Allied Matters Act by a licensed financial institution with sole object of keeping custody of pension fund and retirement benefits assets;
  - (b) has a minimum paid capital of such sum that may be prescribed by the Commission from time to time and is wholly owned by a licensed financial institution with net worth of a minimum of N25,000,000,000 or as may be prescribed from time to time;
  - (c) shows that the parent company has issued a guarantee to the full sum and *value* of the cash float of pension funds and assets held by the Pension Fund Custodian company, as may be determined by the Commission, from time to time;
  - (d) undertakes to hold the pension fund assets to the exclusive order of the Pension Fund Administrator on trust for the respective employees as may be instructed by the Pension Fund Administrator appointed by each employee;
  - (e) has never been a custodian of any fund which was mismanaged or has been in distress due to any default of the Pension Fund Custodian; and
  - (f) satisfies such additional requirements as may be prescribed from time to time, by the Commission.

Refusal of licence.

63. (1) The Commission may refuse to issue a licence to any applicant pursuant to an application made under sections 58 and 61 of this Act where it is satisfied that -
- (a) the information contained in the application for grant of licence is false or untrue in any material particular;
  - (b) the application does not meet the requirements prescribed by this Act or the Commission for grant of license; or
  - (c) The licence of the applicant had earlier been revoked by the Commission under any of the conditions mentioned in section 64 of this Act.
- (2) Where the Commission refuses to register any Pension Fund Administrator or Pension Fund Custodian, it shall notify the applicant in the prescribed form, specifying the reasons for such refusal.

#### Revocation of Licence.

64. (1) Subject to subsection (2) of this section, the Commission may revoke a licence issued to a Pension Fund Administrator or Pension Fund Custodian, where it discovers that -
- (a) a statement was made in connection with the application which the applicant knew or ought to have known to be false, untrue or misleading in any material particular;
  - (b) the applicant or licensee is subject to an insolvency proceeding or *is* likely to be wound up or otherwise dissolved;
  - (c) the conduct of affairs of the Pension Fund Administrator or Pension Fund Custodian does not conform to the provisions of this Act or any regulations made pursuant to this Act;
  - (d) any event occurs which renders the Pension Fund Administrator or Pension Fund Custodian unable to manage the pension funds or take custody of the pension funds as the case may be; or
  - (e) the Pension Fund Administrator or Pension Fund Custodian is in breach of any condition attached to the licence issued by the Commission.
- (2) The Commission shall, before revoking any licence, give the Pension Fund Administrator or Pension Fund Custodian at least seven calendar days notice of its intention and shall consider any representations made to it in writing by the Pension Fund Administrator or Pension Fund Custodian within that period before the revocation.
- (3) The notice under subsection (2) of this section shall be in the prescribed form and shall specify the reasons for the revocation of licence.
- (4) The revocation of licence of a Pension Fund Administrator or Pension Fund Custodian shall not in any way prejudice the entitlements of any beneficiary of the retirement savings account under the Scheme and other approved schemes.
- (5) Notwithstanding the provisions of the Companies and Allied Matters Act, the Commission shall in its revocation order, withdraw the powers of the board of the Pension Fund Administrator or Pension Fund Custodian over the pension funds

and assets held or administered by the company and may appoint administrators with relevant qualifications who shall superintend the transfer of the assets and funds held or administered by the Company and exercise the powers of the board where necessary in accordance with this Act.

- (6) The Commission shall -
- (a) cause the Retirement Savings Accounts being managed by the Pension Fund Administrator whose licence was revoked under subsection (l) of this section to be transferred to another Pension Fund Administrator or administrators as the case may be; and
  - (b) transfer the pension fund and assets being held by a Pension Fund Custodian whose licence was revoked under subsection (1) of this section to another Pension Fund Custodian or custodians as the case may be.
- (7) The Commission shall publish by notice in the Federal Gazette, the list of the Pension Fund Administrators or Pension Fund Custodians whose licenses have been revoked.

Publication of list of Pension Fund Administrators and Pension Fund Custodians.

65. The Commission shall, at the end of each calendar year publish a list of all Pension Fund Administrators and Pension Fund Custodians licensed by it in such manner as it considers necessary.

Proper books of account and audit of the Pension Fund Administrators and Pension Fund Custodians.

66. (1) A Pension Fund Administrator or Pension Fund Custodian licensed under this Act shall cause to be kept proper books of account and records of both the pension funds and company operations.
- (2) A Pension Fund Administrator or Pension Fund Custodian shall, not later than three months from the end of the year, cause both the pension funds and company accounts to be audited by qualified external auditors.
- (3) Every Pension Fund Administrator or Pension Fund Custodian shall -
- (a) submit its audited financial accounts to the Commission for approval, not later than four months from the end of its financial year;
  - (b) cause to be published the audited accounts approved under paragraph (a) of this subsection in at least two daily newspapers widely circulated in Nigeria within one month of the approval by the Commission; and
  - (c) exhibit approved audited accounts in a conspicuous position in each of its offices and branches within 30 days of the approval throughout the financial year.
- (4) Notwithstanding the provisions of subsection (3)(b) and (c) of this section, Closed Pension Fund Administrators and sponsors of approved retirement benefit schemes shall not be required to publish or exhibit their respective approved audited accounts.

Annual reports by Pension Fund Administrators.

67. A Pension Fund Administrator shall, not later than four months from the end of the financial year submit to the Commission an annual report in respect of the immediate preceding year, on both the company operations and pension funds being managed by it and such report shall include the audited accounts.

External auditor's obligation to report to the Commission.

68. (1) An external auditor engaged by a Pension Fund Administrator or Pension Fund Custodian referred to under section 66(2) of this Act shall be responsible to the Commission for the protection of pension funds and assets managed or held by the Pension Fund Administrator or Pension Fund Custodian and shall, in the discharge of his or its duties, report to the Commission -
- (a) any extreme situation such as evidence of imminent financial collapse of the Pension Fund Administrator or Pension Fund Custodian;
  - (b) any evidence of an event or occurrence which has led or is likely to lead to material diminishing of the net assets of the fund or Pension Fund Administrator or Pension Fund Custodian;
  - (c) any evidence that there has been a significant weakness in the accounting and other records or the internal control systems of the fund or Pension Fund Administrator or the Pension Fund Custodian;
  - (d) any evidence that the management of the Pension Fund Administrator or Pension Fund Custodian has reported financial information to the Commission, in respect of the pension fund and company's operations, which is misleading in a material particular;
  - (e) where the auditor believes that a fraud or other misappropriation has been committed by the directors or the management of the Pension Fund Administrator or Pension Fund Custodian or has evidence of an attempt by the directors or management to commit such fraud or misappropriation; or
  - (f) where there has been an event or occurrence which affects or is likely to affect the auditor's confidence in the competence of the directors or the management to conduct the business of a Pension Fund Administrator or Pension Fund Custodian in a prudent, safe and sound manner.
- (2) Nothing in this section shall be construed to be a breach of the duty of the auditor to a Pension Fund Administrator or Pension Fund Custodian by reason only of his communicating in good faith to the Commission, whether or not in response to a request made by the Commission; any information or opinion on any matter or situation to which this section applies.
- (3) Any auditor of a fund, Pension Fund Administrator or Pension Fund Custodian who acts in contravention of or fails deliberately or negligently to *comply* with any of the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than N10, 000 ,000 for the firm or to a term not less than three years imprisonment for the responsible partner or principal officer or to both such fine and imprisonment.

General obligations of the Pension Fund Administrator and Pension Fund Custodian.

69. The Pension Fund Administrator and Pension Fund Custodian shall -

- (a) ensure that the pension fund is at all times managed or held in accordance with the provisions of this Act regulations or guidelines made hereunder and any directive given by the Commission;
- (b) take reasonable care to ensure that the management or custody of the pension funds is carried out in the best interests of the retirement savings account holders;
- (c) report to the Commission, as soon as practicable, any unusual occurrence with respect to the pension funds which in his view could adversely affect the rights of the owner of a retirement savings account under the Scheme;
- (d) report to the Commission, as soon as reasonably practicable, if an employer is in default of remittance of any contribution and such remittance remains due for a period of more than 14 days; and
- (e) subject to the guidelines issued by the Commission and upon the request of an employee, transfer the retirement savings account promptly to another Pension Fund Administrator;
- (f) provide annual fidelity insurance cover for its staff to the full value of the pension funds and assets managed or held or as may be determined by the Commission.

Specific obligation of the Pension Fund Custodian.

- 70. (1) The Pension Fund Custodian shall maintain all pension funds and assets in its custody to the exclusive order of the relevant Pension Fund Administrator and the Commission.
- (2) The Pension Fund Custodian shall not utilise any pension fund or assets in *its* custody to meet its own financial obligation to any person whatsoever.

Agreements or arrangements requiring consent of the Commission.

- 71. Except with the prior consent of the Commission in writing, no Pension Fund Administrator or Pension Fund Custodian shall enter into any agreement or arrangement -
  - (a) for the sale or transfer of significant shareholding of the Pension Fund Administrator or Pension Fund Custodian which is capable of causing a change in the shareholding structure of the Pension Fund Administrator or Pension Fund Custodian;
  - (b) for the restructuring of its share capital;
  - (c) for the amalgamation or merger of the Pension Fund Administrator or Pension Fund Custodian with any other Pension Fund Administrator or Pension Fund Custodian;
  - (d) for the restructuring of the Pension Fund Administrator or Pension Fund Custodian; or

(e) to employ a management agent or transfer its business to any agent.

Operation of branch offices by a Pension Fund Administrator and Pension Fund Custodian.

72. Subject to the approval of the Commission, a Pension Fund Administrator or Pension Fund Custodian may open or close any of its branch offices anywhere within or outside Nigeria.

Returns on frauds and forgeries.

73. Every Pension Fund Administrator or Pension Fund Custodian shall render to the Commission reports of any fraud, forgery or theft which occurs in its organization in a format approved by the Commission.

Notification of dismissed staff.

74. (1) Every Pension Fund Administrator or Pension Fund Custodian shall notify the Commission of any staff that is dismissed, his appointment terminated or advised to retire or resign on the grounds of fraud, misconduct or dishonesty.

(2) The Commission shall maintain a list of persons -

(a) who have been dismissed;

(b) whose appointments are terminated; and

(c) who are advised to retire or resign, on the grounds of fraud, misconduct or dishonesty, and shall circulate such list to Pension Fund Administrators and Pension Fund Custodians.

(3) The Commission may, if it deems fit in the circumstances, circulate to other regulatory agencies the list of persons maintained under subsection (2) of this section.

(4) It shall be the duty of all government appointing or screening and or confirming bodies to make sure that no person that has been indicted in any form of pension fraud or crime be allowed to serve in any pension and or finance administration in Nigeria.

Prohibition of employment.

75. A Pension Fund Administrator or Pension Fund Custodian shall not employ any person whose name is on the list maintained by the Commission under section 74 (2) of this Act, unless with the prior approval of the Commission.

Penalty for non-compliance.

76. (1) A Pension Fund Administrator or Pension Fund Custodian who fails to comply with any of the provisions of sections 73, 74 and 75 of this Act shall pay a penalty of N1,000,000 to the Commission for every violation.

- (2) In addition to the penalty specified in subsection (1) of this section, the Commission may impose additional penalties including removal of any top management staff of the Pension Fund Administrator or the Pension Fund Custodian who had knowledge or ought to have knowledge of the offences.

Prohibited transactions.

77. (1) A Pension Fund Administrator shall not hold any pension fund or asset
  - (2) A Pension Fund Administrator shall not keep any pension fund or asset with a Pension Fund Custodian in whom the Pension Fund Administrator has any business interest, share or any relationship whatsoever.
  - (3) An employee of the Pension Fund Administrator shall not engage in any business transaction or trade in any manner with the Pension Fund Administrator as a counterpart or with the subsidiary in relation to pension fund or assets.
  - (4) A Pension Fund Administrator or Pension Fund Custodian shall not divert or convert pension funds and assets as well as any income or brokerage, commission arising from the investment of pension fund or asset or by any other means.
78. (1) To assist it in carrying out its functions and ensuring compliance with the provisions of this Act, every Pension Fund Administrator shall establish -
    - (a) Risk Management Committee; and
    - (b) Investment Strategy Committee.
  - (2) The Risk Management Committee shall -
    - (a) determine the risk profile of the investment portfolios of the Pension Fund Administrator;
    - (b) draw up programmes of adjustments in the case of deviation;
    - (c) determine the level of reserves to cover the risks of the investment portfolios;
    - (d) advise the Pension Fund Administrator on maintaining adequate internal control measures and procedures; and
    - (e) carry out such other functions relating to risk management as the Pension Fund Administrator may, from time to time, determine.
  - (3) The Investment Strategy Committee shall -
    - (a) formulate strategies for complying with investment guidelines issued by the Commission;
    - (b) determine an optimal investment mix consistent with risk profile agreed by the board of the Pension Fund Administrator;

- (c) evaluate the value of the daily market-to-market portfolios and make proposals to the board of the Pension Fund Administrator;
- (d) review the performance of the major securities of the investment portfolios of the Pension Fund Administrator on periodic basis, and
- (e) carry out such other functions relating to investment strategy as the board of the Pension Fund Administrator may, from time to time, determine.

Appointment of chief executive officers for Pension Fund Administrators and Pension Fund Custodians.

79. (1) The Chief Executive Officer, Directors and Management Staff of a Pension Fund Administrator or Pension Fund Custodian shall not be appointed without the prior written approval of the Commission.
- (2) The Chief Executive Officer and Directors of a Pension Fund Administrator or Pension Fund Custodian shall execute the code of conduct form as may be provided by the Commission from time to time.
- (3) Notwithstanding subsections (1) and (2) of this section, the Commission may suspend or direct the resignation and/or sack of any Chief Executive Officer Director or Management staff of any Pension Fund Administrator or Pension Fund Custodian found to have grossly disregarded the provisions of this Act.

Compliance officer.

80. Every Pension Fund Administrator and Pension Fund Custodian shall employ a compliance officer who shall -
- (a) be responsible for ensuring compliance with the provisions of this Act rules and regulations made there under and the internal rules and regulations made by the Pension Fund Administrator or the Pension Fund Custodian;
  - (b) have relevant professional and cognate experience;
  - (c) report to the chief executive officer of the Pension Fund Administrator or the Pension Fund Custodian and the Commission on any non – compliance by the Pension Fund Administrator or Pension Fund Custodian; and
  - (d) liaise with the Commission with regard to any matter which, in the opinion of the Commission, will enhance the compliance of the Pension Fun Administrator and Pension Fund Custodian with the provisions of this Act and guidelines issued there under.

Statutory Reserve Fund.

81. (1) Every Pension Fund Administrator *shall* maintain a Statutory Reserve Fund as contingency fund to meet any claim for which the Pension Fund Administrator may be liable as may be determined by the Commission.
- (2) The Statutory Reserve Fund shall be credited annually with 12.5 percent of the net profit after tax or such other percentage of the net profit as the Commission may, from time to time, stipulate.



Pension Protection Fund.

82. (1) The Commission shall establish and maintain a fund to be known as the Pension Protection Fund for the benefits of eligible pensioners covered by any pension scheme established, approved or recognized under this Act.
- (2) The Pension Protection Fund shall consist of -
- (a) an annual subvention of 1 % of the total monthly wage bill payable to employees in the Public Service of the Federation towards the funding of the minimum guaranteed pension;
  - (b) annual pension protection levy paid by the Commission and all licensed pension operators at a rate to be determined by the Commission, from time to time; and
  - (c) income from investment of the Pension Protection Fund.
- (3) The Commission shall utilise the Pension Protection Fund for -
- (a) the funding of the minimum guaranteed pension pursuant to section 84 of this Act;
  - (b) the payment of compensation to eligible pensioners for shortfall or financial losses arising from investment activities; and
  - (c) any other purpose deserving protection with the Pension Protection Fund as the Commission may, from time to time, determine.
- (4) The Commission shall make regulations governing the operations of the Pension Protection Fund, fund management and custody, eligibility criteria and related matters.

Pension Fund administrative expenses.

83. ( 1) All income earned from investment of pension funds under this Act shall be credited to the individual Retirement Saving Accounts of beneficiaries.
- (2) All fees, charges, costs and expenses on transactions made and properly delineated by the Pension Fund Administrators shall be debited from the pension fund, in line with regulations issued by the Commission, from time to time.
- (3) The Commission shall ensure that *all* information in brochures, advertisements, promotional materials and claims of Pension Fund Administrators are truthful in every way without omission of any fact which may make the information contained therein misleading, false or deceptive.

Minimum pension guarantee.

84. (1) All Retirement Savings Account holders who have contributed to a licensed Pension Fund Administrator for a number of years to be specified by the Commission shall be entitled to a guaranteed minimum pension as may be specified from time to time by the Commission.
- (2) The Nigeria Social Insurance Trust Fund shall continue to provide every eligible citizen of Nigeria and legal resident social security insurance services other than pension in accordance with the Nigeria Social Insurance Trust Fund Act.
- (3) The Nigeria Social Insurance Trust Fund Act shall be deemed amended in all particulars to bring it in full compliance with this Act.

## **PART XII - INVESTMENT OF PENSION FUND**

Investment of pension funds.

85. (1) All contributions made under this Act shall be invested by the Pension Fund Administrators with the objectives of safety and maintenance of fair returns on amount invested.
- (2) Pension funds and assets shall only be invested in accordance with regulations and guidelines issued by the Commission, from time to time.

Modes of investments of pension funds.

86. Subject to guidelines issued by the Commission, pension funds and assets shall be invested in any of the following -
- (a) bonds, bills and other securities issued or guaranteed by the Federal Government and the Central Bank of Nigeria;
  - (b) bonds, bills and other securities issued by the States and Local Governments;
  - (c) bonds, debentures, redeemable preference shares and other debt instruments issued by corporate entities and listed on a Stock Exchange registered under the Investments and Securities Act;
  - (d) ordinary shares of public limited companies listed on a securities exchange registered under the Investments and Securities Act;
  - (e) bank deposits and bank securities;
  - (f) investment certificates of closed-end investment fund or hybrid investment funds listed on a securities exchange registered under the Investments and Securities Act with good track records of earning;
  - (g) units sold by open-end investment funds or specialist open-end investment funds registered under the Investments and Securities Act;
  - (h) real estate development investments; or

(i) specialist investment funds and such other financial instruments as the Commission may, from time to time, approve.

Investment outside Nigeria.

87. (1) A Pension Fund Administrator may invest the pension funds in units of any investment outside Nigeria within the categories of investments set out in section 86 of this Act.

(2) Subject to the subsisting Central Bank of Nigeria foreign exchange rules, the Commission may recommend to the President for approval, the portfolio limits for investment of pension fund or assets outside the territory of the Federal Republic of Nigeria.

Restricted investment.

88. A Pension Fund Administrator shall not invest pension fund or assets in shares or Restricted investment other securities issued by -

- (a) the Pension Fund Administrator or its Pension Fund Custodian; and
- (b) a shareholder of the Pension Fund Administrator or its Pension Fund Custodian.

Restriction on sale of pension fund assets.

89. (1) A Pension Fund Administrator shall not -

- (a) sell pension fund assets to -
  - (i) itself;
  - (ii) any shareholder, director, affiliate, subsidiary, associate, related party or company of the Pension Fund Administrator,
  - (iii) any employee of the Pension Fund Administrator,
  - (iv) the spouse of any of the persons referred to in sub-paragraphs (i) to (iii) of this paragraph or those related to the said persons.
  - (v) affiliates of any shareholder of the Pension Fund Administrator, or
  - (vi) the Pension Fund Custodian holding pension fund assets to the order of the Pension Fund Administrator and any related party to the Pension Fund Custodian;
- (b) utilise pension fund to purchase assets from the persons mentioned in subsection (a) of this section; and

- (c) apply pension fund assets under its management by way of loans and credits or as collateral for any loan taken by a holder of retirement savings account or any person whatsoever.
- (2) Notwithstanding the provision of subsection (1) (c) of this section, a Pension Fund Administrator may, subject to guidelines issued by the Commission, apply a percentage of the pension assets in the retirement savings account towards payment of equity contribution for payment of residential mortgage by a holder of Retirement Savings Account.

Additional restriction on investments.

- 90. (1) The Commission may, by regulations, impose additional restrictions on investments by Pension Fund Administrators with the object of protecting the interest of the beneficiaries of the Retirement Savings Accounts.
- (2) For the purpose of complying with any regulation or guideline issued by the Commission on the quality of instruments that pension fund assets may be invested in, and to ensure the safety of pension fund assets in general, every Pension Fund Administrator shall conduct extensive research and due diligence prior to investment as well as utilize the risk rating report to the risk rating of instruments that has been undertaken by any risk rating company registered under the Investments and Securities Act. Cap. 124 LFN, 2004

Supervision and examination of Pension Fund Administrators and Pension Fund Custodians.

- 91. Any Pension Fund Administrator who fails to comply with any provision of this Act shall be liable to a penalty of not be less than N500, 000 for each day that the non-compliance continues and the Pension Fund Administrator shall forfeit the profit from that investment to the beneficiaries of the Retirement Savings Accounts and where the investment has led to a loss, the Pension Fund Administrator shall be made to make up for the loss.

### **PART XIII-SUPERVISION AND EXAMINATION**

- 92. (1) The Commission shall, at least once in each year authorise an inspection or examination, as the case may be, of the -
  - (a) Pension Fund Administrators;
  - (b) Pension Fund Custodians;
  - (c) Federal Pension Transitional Arrangement Directorate; and
  - (d) Federal Capital Territory Pension Transitional Arrangement Directorate, for the purpose of determining whether or not the provisions of this Act or any regulations made there under are being complied with.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Commission may, at any time, authorise one or more of the officers of the Commission or agent to inspect, examine or investigate any aspect of the activities of any Pension Fund Administrator, Pension Fund Custodian, Federal Government Pension Transitional Arrangements Directorate, Federal Capital Territory Pension Transitional Arrangements Directorate, any pension department, board of trustee, employer or body relating to pension funds or assets.

Appointment of examiners.

93. The Commission may appoint its officers or agent or any other qualified person as examiners as it may consider expedient to carry out duties under section 92 of this Act.

Powers of examiners.

94. (1) In the performance of the duties imposed under this Part of this Act, the Commission or its officers or agents shall have power to -
- (a) inspect, examine or investigate under conditions of confidentiality, the books, activities and affairs of any person or body corporate relating to. pension funds in accordance with section 92 (1) of this Act or any regulations made under this Act;
  - (b) gain access at all times to the hard copies and electronic versions of books, accounts, documents and vouchers of any Pension Fund Administrator or Pension Fund Custodian or any person or body in relation to pension funds;
  - (c) verify or check the balances in the retirement savings account and the records of deposit made to date;
  - (d) verify the investment made by a Pension Fund Administrator with pension funds under its management; and
  - (e) request from any director, manager or officer of any Pension Fund Administrator or Pension Fund Custodian any information or explanation as the Commission may deem necessary in each case to enable it determine whether or not the provisions of this Act or any regulation made there-under are being complied with.
- (2) In exercising the powers under subsection (1) of this section, an examiner shall exercise reasonable care to avoid undue hindrance to the day-to-day activities of any Pension Fund Administrator or Pension Fund Custodian or any person or body relating to pension funds.
95. (1) The Commission shall, upon the completion of an examination or Examination reports. investigation, forward a copy of its report to the Pension Fund Administrator or Pension Fund Custodian or such other person or body with the instruction that the report be placed before the board of directors of the Pension Fund Administrator or Pension Fund Custodian or such other persons or body.
- (2) The board of directors of the Pension Fund Administrator or Pension Fund Custodian or any other pension related body recognised under this Act shall, within 30 days of receiving the report mentioned in subsection (1) of this section, convene a meeting of the board to consider the report and submit its reactions to the report and proposals for implementing any recommendations to the Commission.
- (3) Any Pension Fund Administrator, Pension Fund Custodian, person or body who fails to comply with the provisions of subsection (2) of this section commits an offence and is liable on conviction to a fine of not less than N500,000 for each day during which the offence continues and where the offence continues for more than 30 calendar days, the Commission

may, in addition to the fine, suspend any director; management staff or officers of the Pension Fund Administrator or Pension Fund Custodian.

- (4) The management of the Commission shall submit quarterly reports to the Board of the Commission on its findings in the performance of its function with respect to the supervision and examination of the Pension Fund Administrators and Pension Fund Custodians or any other person or body relating to pension funds.

Powers of the Commission to order special investigation.

96. (1) The Commission may, at any time, order a special examination or investigation of the books, operations or affairs of a Pension Fund Administrator, Pension Fund Custodian or any other person or body in relation to pension matters where -

(a) it suspects or is satisfied that -

(i) it is in the public interest to do so:

(ii) the Pension Fund Administrator or Pension Fund Custodian has been carrying on its business in a manner detrimental to the interest of beneficiaries of the Retirement Savings Account,

(iii) the Pension Fund Administrator or Pension Fund Custodian does not have sufficient assets to cover its liabilities,

(iv) the Pension Fund Administrator or Pension Fund Custodian has contravened any of the provisions of this Act, or

(b) an application is made requesting for the examination or investigation by -

(i) a director, manager, officer or shareholder of the Pension Fund Administrator or Pension Fund Custodian,

(ii) a beneficiary of a retirement savings account or any client of a Pension Fund Administrator,

(iii) any Pension Fund Administrator to examine the Pension Fund Custodian of the pension fund assets that the Pension Fund Administrator is managing; or

(iv) any Pension Fund Custodian to examine the Pension Fund Administrator for whom it is holding pension fund assets.

(2) An applicant under subsection (1) (b) of this section shall be responsible for the cost of conducting the requested examination or investigation.

Duty to produce information to examiners.

97. A Pension Fund Administrator, Pension Fund Custodian, person or body connected to pension matters, shall produce and give the examiners such books, accounts, documents, vouchers, information and explanation as the examiner may request for the purpose of this Act.

Special powers of the Commission to intervene in the management of Pension Fund Administrators and Pension Fund Custodians.

98. (1) The Commission may exercise any of the powers specified in subsection (2) of this section where:

- (a) a Pension Fund Administrator or Pension Fund Custodian informs the Commission that it is unlikely to meet its obligations under this Act or it is insolvent; or
- (b) after an examination under section 92 of this Act or otherwise the Commission is satisfied that the Pension Fund Administrator or Pension Fund Custodian -
  - (i) is unable to meet any of its obligations under this Act;
  - (ii) is insolvent;
  - (iii) violated or failed to comply with any of the provisions of this Act, guidelines or regulations issued by the Commission;
  - (iv) failed to comply with any directive issued by the Commission; or
  - (v) failed to adhere to proper corporate governance standards.

(2) Pursuant to subsection (1) of this section, the Commission may, by order in writing-

- (a) direct the Pension Fund Administrator or Pension Fund Custodian to transfer the pension funds and assets being managed or held by it to another Pension Fund Administrator or Pension Fund Custodian;
- (b) require the Pension Fund Administrator or Pension Fund Custodian to take any steps or action or to do or not to do any act or thing whatsoever, in relation to its business or its directors or officers which the Commission may consider necessary and which is set out in the order, within a time frame as may be stipulated therein;
- (c) suspend a board or management, or remove the chief executive officer, any director, manager or officer of the Pension Fund Administrator or Pension Fund Custodian, notwithstanding anything in any enactment or law, or any limitation contained in the Memorandum and Articles of Association of the Pension Fund Administrator or Pension Fund Custodian provided that such order of suspension or removal shall state the reason and effective date of such suspension or removal; and
- (d) constitute an interim board or management, appoint an interim chief executive officer, director, manager or officer for the Pension Fund Administrator or Pension Fund Custodian, removed pursuant to paragraph (c) of this

subsection and set out such terms of reference and conditions of appointment, including remuneration, as the Commission may determine;

- (3) The interim board, management, chief executive officer, director, manager or officer of the Pension Fund Administrator or Pension Fund Custodian, constituted or appointed respectively pursuant to paragraph (d) of this subsection shall remain in office until such a time as it may be considered no longer necessary by the Commission.

#### **PART XIV - OFFENCES, PENALTIES AND ENFORCEMENT POWERS**

Offences and penalties.

99. (1) A person who contravenes any of the provisions of this Act commits an offence and where no penalty is prescribed, shall be liable on conviction to a fine of not less than N250,000 or to a term of not less than one year imprisonment or to both fine and imprisonment.
- (2) Any person or body who attempts to commit any offence specified in this Act commits an offence and is liable, on conviction, to the same punishment as is prescribed for the full offence in the Act. Offences and penalties.
- (3) Without prejudice to section 174 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Commission may compound any offence provided for under this Act by accepting an amount less than the fine provided for the offence under this Act.
- (4) A Pension Fund Administrator, Pension Fund Custodian that reimburses or pays for a staff, officer or director directly or indirectly a fine imposed under this Act commits an offence and is liable on conviction to a fine of not less than N5,000,000 and also forfeits the amount repaid or reimbursed to the staff, officer or director.

Offences relating to misappropriation of pension funds.

100. (1) A Pension Fund Administrator or Pension Fund Custodian or person or body who misappropriates or diverts pension funds commits an offence under this Act and is liable on conviction to a fine of an amount equal to three times the amount so misappropriated or diverted or to a term of not less than 10 years imprisonment or to both fine and imprisonment.
- (2) In addition to the penalty prescribed in subsection (1) of this section, the Pension Fund Administrator, Pension Fund Custodian, person or body so convicted shall refund the amount so misappropriated or diverted.
- (3) Whenever a person is convicted of an offence under this Act, the court, in passing sentence, shall, in addition to any punishment which the court may impose in respect of the offence, order the forfeiture to the Federal Government of Nigeria of any property, asset or fund with accrued interest, or the proceeds of any unlawful activity under this Act and is in the possession, custody or control of the convicted person.

Offences relating to Pension Fund Custodian.



101. A Pension Fund Custodian who contravenes the provisions of section 70 of this Act commits an offence and is liable on conviction to a fine of not less than N10, 000,000 and each of its director or principal officers is liable to a fine of not less than N5, 000,000 or to a term of not less than 5 years imprisonment or to both such fine and imprisonment.

Power of the Commission to impose additional sanctions.

102. Notwithstanding the provisions of any other Law, the Commission may, in addition to the penalties stipulated under this Act, impose additional sanctions on the board, any director, management, manager or officer of a Pension Fund Administrator or Pension Fund Custodian that violates any of the provisions of this Act

Offences by corporate body

103. Where an offence under this Act is committed by a body corporate, the body corporate or every-

- (a) director, manager, secretary or other officers of the body corporate;
- (b) person who was purporting to act in such capacity mentioned in paragraph (a) of this section, who had knowledge or believed to have had knowledge of the commission of the offence and who did not exercise due diligence to ensure compliance with this Act shall be deemed to have committed the offence and shall be proceeded against in accordance with this Act.

Penalty for refusing to give information, etc.

104. A Pension Fund Administrator, Pension Fund Custodian, any person or body who-

- (a) refuses to-
  - (i) produce any book, account, document or voucher;
  - (ii) give any information or explanation required by an examiner;
- (b) with intent to defraud -
  - (i) produces any book, account, document or voucher, or
  - (ii) gives any information or explanation, which is false or misleading in any material particular; or
- (c) supplies information which he knows to be false or supplies the information recklessly as to its truth or falsity, commits an offence under this Act and shall on conviction be liable to a fine not less than N200, 000 or to imprisonment for a term of not less than three years or to both such fine and imprisonment for every false or misleading information given and where the offence continues to a fine not less than N100, 000 for every day the offence continues,

Jurisdiction.

105. (1) An offence under this Act shall be tried in a court of competent jurisdiction,
- (2) Prosecution for offences under this Act shall be instituted before the court in the name of the *Federal* Republic of Nigeria by the Attorney-General of the Federation *or* such officer in the Federal Ministry of Justice as the Attorney-General of the Federation may authorise.
- (3) Without prejudice to the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Attorney-General of the Federation may -
- (a) after consultation with the Attorney-General of any State, authorize the Attorney-General of a State or any officer in the Ministry of Justice of that State; or
  - (b) where the Commission so requests, authorise any legal practitioner in Nigeria, to carry out the prosecution of offences under this Act directly or assist therein.
- (4) In the exercise of powers under this Act, a court of competent jurisdiction referred to under subsection (1) of this section -
- (a) shall conduct its proceedings in such a manner as to avoid undue delay;
  - (b) may lift the corporate veil of a body corporate, where it is necessary for the purpose of revealing members of the corporate entity that may be guilty of an offence under this Act; and
  - (c) may, subject to this Act, adopt any procedure, where it is expedient, to ensure speedy and just determination of any case before it.

## **PART XV-MISCELLANEOUS**

### Disputes resolution.

- 106.(1) An employee or beneficiary of a Retirement Savings Account who is dissatisfied with a decision of the Pension Fund Administrator or employer in respect of pension matters under this Act, may request, in writing, that such decisions be reviewed by the Commission with a view to ensuring that such decision is made in accordance with the provisions of this Act or any regulation made there under.
- (2) A copy of any request under subsection (1) of this section shall be served on the relevant Pension Fund Administrator or employer.
- (3) The Commission shall in review a request of a Pension Fund Administrator or employer under subsection (1) of this section, conduct its proceedings in such a manner as to avoid delay.
- (4) Notwithstanding sections 19 (2)(a) and 26 (2) and (4) of this Act, where the Board of the Commission is not yet reconstituted after six months of the dissolution of the last Board, the President of the Federal Republic may appoint fit

and proper persons with pension cognate experience to constitute the Board at the first instance, subject to the confirmation by the Senate.

Arbitration and arbitral awards.

107. (1) Where either party is dissatisfied with the decision of the Commission on any matter referred to it under section I 06 of this Act, such party may refer the matter to arbitration in accordance with the Arbitration and Conciliation Act or to the National Industrial Court.
- (2) Where a person or body corporate is aggrieved or dissatisfied with any action or decision of the Commission under this Act, the aggrieved person or body corporate may refer the matter to arbitration under the Arbitration and Conciliation Act or to the National Industrial Court.
- (3) Any arbitration award made under subsections (1) and (2) of this section shall be binding on the parties and shall be enforceable by a court of competent jurisdiction.
- (4) Notwithstanding the provision of any law, no limitation of time shall apply to actions for the recovery of contributions, penalties and other benefits under this Act.

Application of Public Officers Protection Act.

108. (1) Subject to the provisions of this Act, the provisions of the Public Officers, Application of Public Officers Protection Act. Protection Act shall apply in relation to any suit instituted against an officer or employee of the Commission.
- (2) Notwithstanding anything contained in any other law, no suit shall lie against a member of the Board, Director-General, Commissioner or any other officer or employee of the Commission for any act done in pursuance or execution of this Act or any other enactment or law, or of any public duty or authority in respect of any alleged neglect or default in the execution of this Act or any other enactment or law, duty or authority or be instituted in any court unless it is commenced-
- (a) within three months next after the act, neglect or default complained of; or
- (b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.

Limitation of legal actions.

- 109.(1) A suit shall not be commenced against a member of the Board, Director-General, Commissioner or any other officer or employee of the Commission before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Commission by the intending plaintiff or his agent.
- (2) The notice referred to in subsection (1) of this section shall clearly and explicitly state -
- (a) the cause of action;
- (b) the particulars of the claim;

- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief which he claims.

Service of notice.

110. The notice referred to in section 109 of this Act and any summons, notice or other document required or authorised to be served upon the Commission under the provisions of this Act or any other law may be served by delivering *it* to the Director-General, Secretary, any principal officer or by sending it by registered post addressed to the Director-General or Secretary at the headquarters of the Commission.

Restriction on execution against the property of the Commission.

- 112 (1) In any action or suit against the Commission, no execution or attachment process in any nature shall be issued against the Commission unless not less than three months notice of the intention to execute or attach has been given to the Commission.
- (2) Any sum of money which by the judgment of any court has been awarded against the Commission shall, subject to any direction given by the court, where notice of appeal against the judgment has been given, be paid from the fund of the Commission.

Indemnity.

112. A member of the Board, officer or employee of the Commission shall be indemnified out of the assets of the Commission against any liability incurred by *him* in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member, officer or employee of the Commission,

Obligation of confidentiality by Pension Fund Administrators and Pension Fund Custodians.

113. (1) Notwithstanding the provisions of any other law, every member of the board, officer, employee, agent or any other person engaged by a Pension Fund Administrator or Pension Fund Custodian shall not make any unauthorized disclosure or use of any information which they may have received directly or indirectly in the course of their engagement with a Pension Fund Administrator or Pension Fund Custodian.
- (2) The obligation under subsection (1) of this section shall continue even after the termination of appointment as a member of the Board, officer, employee or agent of the Pension Fund Administrator or Pension Fund Custodian.
- (3) The obligation specified in subsection (1) of this section extends to members of the Board, officers, employees and any agent or other persons engaged by the Commission.
- (4) The provisions of subsection (1) of this section shall not apply to communications made to the Commission, external auditors of the Pension Fund Administrator or Pension Fund Custodian in connection with the purposes of the Commission or pursuant to the provisions of this Act.

(5) Any person who violates the provisions of this section commits an offence under this Bill and is liable on conviction to a fine of N10, 000,000.00 or to a term of five years imprisonment or to both such fine and imprisonment.

114.(1) Without prejudice to any other law, no member of the Board, officer, employee, agent of the Commission or persons authorized by the Commission to examine a document or make an inquiry under this Act shall disclose except in the performance of their duties or under authority of the Commission.

(2) Notwithstanding subsection (1) of this section, a member of the Board, officer, employee or agent of the Commission or any person authorized by the Commission to examine or make an inquiry under this Act shall be entitled to disclose any information obtained in the administration of this Act where such is required by any court of competent jurisdiction.

Power to make regulations.

115. (1)The Commission may make regulations, rules or guidelines as it deems necessary or expedient for giving full effect to the provisions of this Act.

(2) The contravention of any regulation issued pursuant to any of the provisions of this Act shall constitute an offence and shall be punishable as prescribed Indemnity.

Exemption of pension funds from liquidation process or garnishee proceedings.

116. (1) Notwithstanding the provisions of any other law, no pension funds or assets kept with a Pension Fund Custodian under this Bill shall be used to meet the claims of any of the Pension Fund Custodian's creditors in the event of liquidation of the Pension Fund Custodian and neither shall the pension life annuity funds and assets in the custody of any insurance company be seized or be subject of any execution of judgment debt or be used to meet the claims of any of their creditors *in* the event of winding tip, liquidation or otherwise cessation of business of the insurance company in all cases.

(2) In the case of winding up, liquidation or otherwise cessation of business of the Pension Fund Custodian or any or all of its shareholders, the pension funds or assets in the custody of the Pension Fund Custodian shall not be seized or be subject of execution of a judgment debt or stopped from transfer to another Pension Fund Custodian.

(3) Pension fund and assets in the retirement savings accounts shall not be subject to attachment, injunctive and any garnishee proceedings or used in satisfaction of a judgment debt obtained against any person.

Repeal and provision.

117. (1) The Pension Reform Act No.2, 2004 as amended, is repealed.

(2) Pursuant to the provision of subsection (1) of this section, the following enactments are repealed -

(a) the Pension Act 1990;

(b) the Police and Other Agencies Pensions Offices (Establishment, etc.) Act. 1993; and

- (c) the *Police Pension Rights of Inspector-General of Police Act, 1993*.
- (3) Without prejudice to the provisions of section 6 of the Interpretation Act, the repeal of the enactments specified in subsections (1) and (2) of this section shall not affect -
  - (a) any additional fringe benefits enjoyable upon retirement by any person before the commencement of this Act except as provided by this Act; and
  - (b) anything done or any action taken under or pursuant to the repealed enactments except that such thing done or any action taken shall be construed in accordance with the provisions of this Act.
- (4) Every regulation, order, requirement, certificate, notice, direction, decision, authorization, consent, application, request or thing made, issued, given or done under the repealed Act shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.
- (5) All assets, funds, resources and other movable and immovable property which, immediately before the commencement of this Act, vested in the Commission established under the repealed Act shall, by virtue of this Act and without further assurance, be vested in the Commission.
- (6) Every reference to the Commission established under the repealed Act, Board, Minister, Director - General, Chairman or any person under their control or a document issued in the name of the Commission established under the repealed Act, Board, Director-General, Chairman of the former Board or employee of the former Commission shall be read, unless the context otherwise requires, as a reference to the Commission, Board, Director-General, Chairman, or an employee of the Commission.
- (7) Every board of trustees established or operating under any of the enactments repealed under this section shall transfer all the pension funds and assets hitherto held by it to the Federal Government Pension Transitional Arrangements Directorate or Federal Capital Pension Transitional Arrangement Directorate, as the case may be, established in respect of the Public Service of the Federation and Federal Capital Territory under sections 42 and 44 of this Act, respectively.
- (8) The Commission shall supervise the transfer of all the pension funds and assets under subsection (7) of this section.

Transitional provisions.

- 118. (1) Subject to the provisions of this Act, the Director - General of the Commission established under the repealed Act is deemed to have been transferred to the Commission under the same conditions as Director-General.
- (2) Any person who immediately before the commencement of this Act was a staff of the Commission established under the repealed Act shall continue in office and be deemed to have been appointed under this Act for purposes of implementing the subject matter and provisions of this Act.
- (3) Any property held immediately before the commencement date of this Act on behalf of the Commission established under the repealed Act by any person shall, by virtue of this Act, be vested in the Commission established under this Act.

- (4) The Commission shall be subject to all the obligations and liabilities to which the Commission established under the repealed Act was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Commission as they had against the Commission established under the repealed Act immediately before the commencement of this Act.
- (5) Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the Commission established under the repealed Act in respect of any right, interest, obligation or liability of the Commission established under the repealed Act, may be continued or commenced, as the case may be, and any determination of a court of law, tribunal or other Commission or person may be enforced by or against the Commission established by this Act to the same extent that such proceeding, cause of action or determination might have been continued, commenced or enforced by or against the Commission established under the repealed Act, as if this Act had not been made.
- (6) As from the commencement of this Act, any disciplinary proceeding pending or existing against any employee of the Commission established under the repealed Act, shall be continued and completed by the Commission.

Enactments inconsistent with this Bill.

119. Where any other enactment or law relating to pensions is inconsistent with this Act, this Act shall prevail.

Interpretation.

120. In this Act -

"annuity" means a right to receive periodic payments, usually fixed in size, for life or a term of years;

"As from the commencement of this Act" means the commencement of the Pension Reform Act 2013 and shall, where the context so admits, include the effective date of the repeal of the Pension Reform Act 2004 (as amended) under section 117 of this Act;

"annual total emolument" in relation to the Group Life Insurance Policy to be maintained by an employer means the gross emoluments of an employee or deceased person;

"Board" is the Board of the Commission established under section 19(1) of this Act.

"closed Pension Fund Administrator" means any employer or its subsidiary licensed by the Commission as closed Pension Fund Administrator under section 51 of this Act whose business includes taking responsibility for safe custody of the funds, securities, financial instruments and documents of title of pension fund assets to exclusively manage only pension fund of its employees;

"Commission" means the National Pension Commission established under section 17(1) of this Act;

"court of competent jurisdiction" includes the Federal High Court, High Court of the Federal Capital Territory, High Court of a State and the National Industrial Court;

"distributable income" means all income earned by the contributor less reasonable charges and costs on investment transactions and other reasonably allowable fees and charges;

"employee," means any person employed in the Service of the Federation, the Federal Capital Territory, a Government of a State of Nigeria, Local Government Council or private company or organization or firm;

"employer" includes the Federal Government of Nigeria, Government of a State of Nigeria, Local Government Council or any organization or business that employs three persons or more;

"Federal Government Transitional Arrangements Directorate" means the Federal Transitional Pension Office established under section 42 of this Act;

"Federal Capital Territory Transitional Arrangements Directorate" means the Federal Capital Territory Transitional Pension Office established under section 44 of this Act;

"local government council" means a Local Government Council of the Federal Republic of Nigeria, including the Area Councils of the Federal Capital Territory Administration, listed in the First Schedule to the Constitution of the Federal Republic of Nigeria 1999 (as amended);

"member" means a member of the Board of the National Pension Commission and includes the Chairman;

"Minister" means Minister in charge of Finance;

"monthly emoluments" means total emoluments as may be defined in the employee's contract of employment but shall not be less than a total sum of basic salary, housing allowance and transport allowance;

"National Data Bank" means National Pensions Data Bank;

"pension fund" means an investment fund within the Pension Scheme which is intended to accumulate during an individual working life from contributions and investment income; with the intention of providing income in-retirement from the purchase of an annuity or in the form of a programmed withdrawal, with the possible option of an additional tax free cash lump sum being paid to the individual;

"pension assets" means all assets set aside as retirement benefits;

"Pension Fund Administrator" means anybody corporate licensed by the Commission as a Pension Fund Administrator;

"Pension Fund Custodian" means a company incorporated under the Companies and Allied Matters Act that has been licensed by the Commission under this Bill;

"PIN" means Personal Identification Number issued to an individual upon opening a Retirement Savings Account.

"President" means the President of the Federal Republic of Nigeria;



"programmed withdrawal" means a product offered by a Pension Fund Administrator for periodic payments to a beneficiary of a retirement savings account as specified in section 7 of this Act;

"Public Service of the Federation" is as defined in section 318 of the Constitution of Federal Republic of Nigeria 1999, including the Federal Capital Territory;

"Retirement savings account" means an account opened with a Pension Fund Administrator as specified in section 11 of this Act;

"Scheme" means the Contributory Pension Scheme established under section 3 of this Act; and

"State" means a State of the Federal Republic of Nigeria, including the Federal Capital Territory Administration, listed in the First Schedule to the Constitution of the Federal Republic of Nigeria 1999 (as amended).

Citation.

121. This Act may be cited as the Pension Reform Act, 2014. Citation

## **SCHEDULES**

### FIRST SCHEDULE

*[Section 19(7)]*

### SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

#### *Proceedings of the Board*

1. Subject to this Act and section 27 of the Interpretation Act, the Board shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Board may, from time to time determine,
2. There shall be at least three ordinary meetings of the Board in every calendar year and subject thereto and the Board shall meet whenever it is convened by the Chairman, and if the Chairman is requested to do so by notice given to him by not less than four other members, he shall convene a meeting of the Board to be held within 30 days from the date on which the notice was given in the event that the office of the Chairman is vacant pursuant to section 21 (1) of this Act , the Director General shall exercise his powers under this section to convene a meeting of the Board.

3. Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of them to preside at the meeting.
4. The quorum of any meeting of the Board shall consist of the Chairman (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and six other members.
5. A question put before the Board at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.
6. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberate vote.
7. Where the Board seeks the advice of any person on a particular matter, the Board may invite that person to attend, for such period as it deems fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.
8. The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.
9. The Board of the Commission shall report directly to the President.

#### *Committees*

10. The Board may appoint one or more committees to carry out on behalf of the Board such of its functions as the Board may determine and report on any matter with which the Board is concerned.
11. A committee appointed under paragraph 10 of this Schedule shall be presided over by a member of the Board and shall consist of such number of persons (not necessarily all members of the Board) as, may be determined by the Board and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.
12. A decision of a committee of the Board shall be of no effect until it *is* confirmed by the Board.

#### *Miscellaneous*

13. The fixing of the seal of the Commission shall be authenticated by the signature of the Chairman and the Secretary to the Board.
14. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Commission by the Director-General or by any person generally or specifically authorized to act for that purpose by the Board.
15. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Commission shall be received in evidence and until the contrary is proved, be presumed without further proof, to have been properly signed or sealed.

16. The validity of any proceeding of the Board or its committees shall not be affected by –
- (a) any vacancy in the membership of the Board or its committees ..
  - (b) reason that a person not entitled to do so took part in the proceedings; or
  - (c) any defect in the appointment of a member.
17. Any member of the Board or committee who has a personal interest in any arrangement entered into or proposed to be considered by the Board or any committee shall-
- (a) disclose his interest to the Board or committee; and
  - (b) not vote on any question relating to the arrangement.

## **SECOND SCHEDULE**

*[Section 5(2)]*

### **COMPUTATION OF RETIREMENT BENEFITS**

#### **FORMULA FOR CALCULATION OF PENSIONS AND GRATUITY IN RESPECT OF RETIREMENT**

<b>Year of Qualifying service</b>	<b>Gratuity as percentage of final pay</b>	<b>Pension as percentage of final pay</b>	<b>Year of Qualifying service enrolment</b>	<b>Gratuity as percentage of total final enrolment</b>	<b>Pension as percentage of total final enrolment</b>
-----	-----	-----	5	100	-----
-----	-----	-----	6	108	-----
-----	-----	-----	7	116	-----
-----	-----	-----	8	124	-----
-----	-----	-----	9	132	-----

10	100	-----	10	100	30
11	110	-----	11	108	32
12	120	-----	12	116	34
13	130	-----	13	124	36
14	140	-----	14	132	38
15	100	30	15	140	40
16	110	32	16	148	42
17	120	34	17	156	44
18	130	36	18	164	46
19	140	38	19	172	48
20	150	40	20	180	50
21	160	42	21	188	52
22	170	44	22	196	54
23	180	46	23	204	56
24	190	48	24	212	58
25	200	50	25	220	60
26	210	52	26	228	62
27	220	54	27	236	64
28	230	56	28	244	66
29	240	58	29	252	68

30	250	60	30	260	70
31	260	62	31	268	72
32	270	64	32	276	74
33	280	66	33	284	76
34	290	68	34	292	78
35	300	70	35	300	80