

# NIGERIAN EDUCATION BANK ACT

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NIGERIAN EDUCATION BANK

**An Act to establish the Nigerian Education Bank to approve and disburse loans for educational purposes and for matters connected therewith.**

[1993 No. 50.]

[16th June, 1993]

[Commencement.]

PART I

*Establishment and share capital of the Nigerian Education Bank*

**1. Establishment, etc., of the Nigerian Education Bank**

(1) There is hereby established a bank to be known as the Nigerian Education Bank (in this Act referred to as "the Bank").

*Nigerian Education Bank Act*

(2) The Bank shall-

(a) be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name; and

(b) for the purpose of its functions and subject to the Land Use Act, acquire, hold or dispose of property, movable or immovable.

[Cap. L5.]

**2. Share capital of the Bank, etc.**

(1) The share capital of the Bank shall, subject to subsection (2) of this section, be N400 million divided into 400 million shares of one naira each.

(2) The share capital shall, on the commencement of this Act, be deemed to be subscribed for, issued, and called up in full and payment in respect of the call up shall be made by the holder of the shares at such times and in such manner as the President may direct.

(3) The Minister may, from time to time, with the approval of the President-

(a) increase the share capital of the Bank, and as soon as may be after an increase, the Board may make calls for the additional shares on such terms and conditions as the Board may determine; and

(b) approve other shareholders on the resolution of the Board of Directors of the Bank.

(4) All the shares in the Bank shall be taken up by the Federal Government and shall, subject to subsections (1) and (2) of this section, be paid for by that Government.

(5) The Accountant-General for the Federation shall, when authorised under this subsection by the Minister, charge to and issue out of the Consolidated Revenue Fund of the Federation any sum required for making payment for shares in the bank taken up by the Federal Government.

(6) The liability of the holder of shares in the Bank shall be limited to the amount, if any, unpaid on the shares held by the holder.

### **3. Resources of the Bank**

(1) Without prejudice to the provisions of section 2 of this Act, other resources of the

Bank shall be derived from-

(a) deposits in the Bank;

(b) education bonds;

(c) education endowment fund schemes;

(d) pension fund schemes;

(e) students saving schemes;

(f) children saving schemes; and

(g) such other schemes as the Bank may, from time to time, determine as being relevant to the functions of the Bank.

(2) The Bank may, for the purpose of recovering a sum owed to it under any of its facilities and services, acquire such interest, right or property in the assets of a person concerned in the transaction in satisfaction of that sum and may retain, invest, sell, or otherwise dispose of the interest, right or property so acquired.

(3) The Bank may-

(a) invest and deal with the money of the Bank, not immediately required, on such securities and in such manner as it may, from time to time, determine;

(b) establish and manage funds connected with the functions of the Bank.

(4) The Bank shall maintain diverse and relevant information to facilitate credit verification and exchange such information with comparable organisations on a reciprocal or other agreed basis.

## **PART II**

### *Board of Directors*

### **4. Establishment of the Board of Directors**

(1) There is hereby established for the Bank a governing board to be known as the Board of Directors (in this Act referred to as "the Board").

(2) The Board shall comprise-

- (a) a part-time chairman to be appointed by the President;
- (b) the Managing Director of the Bank;
- (c) the Permanent Secretary of the Ministry of Education or his representative;
- (d) one person to represent the Ministry of Finance;
- (e) three persons to represent the share-holders in proportion to their shareholding in the Bank;
- (f) the Executive Directors of the Bank; and
- (g) three other persons who, by reason of their character and experience in matters relating to education, banking, accountancy, law, finance or economics, are in the opinion of the Minister suitable for appointment as members of the Board

(3) The members of the Board shall be paid such allowances as the Bank in a general meeting may, from time to time, approve.

(4) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters mentioned therein.

[Schedule.]

## **5. Tenure of office**

(1) A member of the Board appointed, otherwise than by office, shall hold office for a term of four years, and subject to the provisions of subsection (2) of this section, shall be eligible for re-appointment for only one further term of four years.

(2) The office of a member of the Board shall become vacant if-

- (a) he resigns as a member by notice in writing under his hand addressed to the Minister; or
- (b) the Minister is satisfied that it is not in the interest of the Bank for the member to continue in office and notifies the member in writing to that effect.

## **6. Removal from office of members of the Board**

(1) If it appears to the Board that a member of the Board, other than an *ex-officio* member, should be removed from office on the grounds of misconduct or inability to perform the functions of his office, the Board shall make a recommendation to the President.

(2) If the President, after making such inquiries as he considers necessary, approves the recommendation, the Minister shall, in writing, declare the office of the member vacant.

(3) Notwithstanding the provisions of subsection (1) of this section, the President may remove a member of the Board from office if he is satisfied that it is in the public interest so to do.

### PART III

#### *Functions and powers*

#### **7. Functions of the Bank**

The functions of the Bank shall be to-

- (a) approve and disburse loans for educational purposes
- (b) provide loans to students to finance their education in institutions of higher education;
- (c) recover loans disbursed under this section
- (d) provide short-term loans to individuals or other bodies in appropriate cases, if it is satisfied—
  - (i) that the purpose for which the loan is requested is viable and would enhance the educational development of Nigeria; and
  - (ii) that there is adequate security for the loan;
- (e) promote the mobilisation of savings and grants from the public and private sectors for educational investments
- (f) accept deposits from individuals, institutions and organisations to finance educational investments
- (g) provide financial advice on educational matters to institutions of higher education, and to parents, students and educational investors;
- (h) engage and participate in other banking and commercial business, including leasing, fund and management, foreign exchange and letters of credit;
- (i) promote the development of viable research, consultancy services and relevant ventures within institutions of higher education and research institutes and centres;
  - (j) aid authors by providing them with loans for the purpose of financing the printing and publishing of educational books; and
- (k) do anything or enter into any transaction which in the opinion of the Board is necessary to ensure the proper performance of its functions under this Act.

## **8. Functions of the Board**

The Board shall, subject to the general direction of the Minister, be responsible for-

- (a) managing and superintending the affairs of the Bank;
- (b) for the overall policy and general administration of the Bank;
- (c) formulating policies and guidelines for operating the loans from the Bank and ensuring their implementation;
- (d) working closely with the management of the Bank to ensure smooth operation of the affairs of the Bank;
- (e) deciding on and approving the borrowing power and credit limits of the Bank;
- (f) approving annual reports and statement of accounts of the Bank;
- (g) appointing and approving fees for external auditors; and
- (h) carrying out such other activities connected with or incidental to the other functions of the Board.

## **9. Powers of the Board**

The Board shall have power-

- (a) to acquire offices and other premises for the use of the Bank;
- (b) to fix terms and conditions of service including remuneration of the employees of the Bank;
- (c) to establish such zonal and other branches of the Bank as it may deem necessary for the proper performance of its functions; and
- (d) to do such other things as are necessary for the successful performance of its functions under this Act.

## **10. Borrowing powers of the Bank**

(1) The Bank may, with the approval of the Minister, borrow from any source any money required for meeting its obligations and discharging its functions under this Act.

(2) The Bank shall have power to-

- (a) secure repayment of any money borrowed by the Bank in such manner as the Bank may think fit and in particular, by the issue of debentures charged upon all or any of the properties of the Bank; and shall also have power to purchase, redeem and pay up those securities; and

(b) receive grants, loans and advances and other money on deposit from the Federal Government, the Central Bank of Nigeria and any other bank and from the public under such terms and conditions as may be approved by the Board.

(3) The Federal Government may guarantee in such manner and on such terms as it may deem fit the redemption and the payment of any interest on any debenture stock or loan raised by the Bank from international development agencies.

## PART IV

### *Staff of the Bank*

#### **11. Managing Director and Executive Directors of the Bank**

(1) There shall be appointed, for the Bank, by the President, the following officers, that is-

(a) a Managing Director, who shall be the chief executive of the Bank and be responsible for the day-to-day management of the affairs of the Bank; and

(b) such number of Executive Directors, not exceeding four, as he may determine, who shall perform such duties as may be assigned to them, from time to time, by the Board or the Managing Director.

(2) A person appointed as the Managing Director or an Executive Director shall not, while holding that office, qualify to hold any office as a director in any other bank, corporation, company or any other establishment without the approval of the Board.

(3) The Managing Director and Executive Directors appointed pursuant to the provisions of subsection (1) of this section shall hold office for a period of five years and shall be eligible for re-appointment for a further period of five years.

(4) Subject to subsection (3) of this section, the Managing Director and Executive Directors shall each hold office on such terms and conditions as may be specified in their letters of appointment.

#### **12. Secretary and other staff of the Bank**

(1) The Board shall appoint a secretary who shall-

(a) be responsible to the Managing Director;

(b) keep the records and conduct the correspondence of the Board; and

(c) perform such other duties as the Board or the Managing Director may, from time to time, determine.

(2) The Board shall appoint such number of officers and other persons as employees of the Bank as may appear expedient and necessary to the Board for the proper and efficient conduct of the business and functions of the Bank.



(3) The terms and conditions of service (including remuneration, allowances and pension benefits) of the secretary and other employees of the Bank shall be as may be determined by the Board.

## PART V

### *Students Loan Revolving Fund and general reserve fund*

#### **13. Students Loan Revolving Fund**

(1) There is hereby established for the Bank a Students Loan Revolving Fund (in this Act referred to as "the Revolving Fund") into which shall be paid an initial sum of N200million contributed by the Federal Government.

(2) The Revolving Fund shall be used for providing loans to students for the purpose of their education in institutions of higher education.

(3) The Revolving Fund shall be maintained and managed in accordance with guidelines which the Board shall, from time to time, stipulate or approve.

#### **14. General reserve fund**

(1) The Bank shall establish and maintain a general reserve fund into which shall be paid the following percentage of the net profits of the Bank-

(a) 50 per cent of the net profits of the Bank for the year, if at the end of the year the fund is less than the authorised capital of the Bank; and

(b) 25 per cent of the net profits of the Bank for the year, if at the end of the year the fund is equal to or exceeds the authorised share capital of the Bank, and any sum not paid into the general reserve fund shall be paid to the shareholders of the Bank as dividends.

(2) The general reserve fund shall be used for meeting contingencies, depreciation of assets, the liquidation of any debt or liability of the Bank and for such purposes as the Board may consider necessary for the proper functioning of the Bank under this Act.

## PART VI

### *Incentives and interest rates*

#### **15. Incentives for investors**

The Bank shall give the following incentives to investors, that is-

(a) interest or yield on dividends earned by individuals and corporate bodies in respect of deposits, bonds or other investments made in an instrument of the Bank shall be exempt from taxation at a rate of up to 200 per cent;

(b) parents who participate in the Education Endowment Fund Scheme of the Bank for their children and wards shall be entitled to claim tax deductions at the rate of 200 per cent for the total annual instalmental payment made;

(c) companies whose Pensions Fund Schemes are managed by the Bank shall be entitled to tax credits based on the annual increase in the market value of the fund; and

(d) financial charges, including commission on turnover, interest on overdraft, letter of credit commission charged by the Bank shall be tax deductible at the rate of 200 per cent.

## **16. Interest rates**

(1) The loans made by the Bank shall be at the prevailing commercial rates in the country.

(2) Without prejudice to subsection (1) of this section, the rate of interest on loans granted to students shall be at such rate and be subsidised by the Federal or State Government to such extent as may, from time to time, be agreed upon by the Minister and the Board.

## **PART VII**

### *Financial provisions*

## **17. Fund of the Bank**

(1) The Bank shall establish a fund from which shall be defrayed all expenditure incurred by the Bank.

(2) There shall be paid and credited into the fund—

(a) all interests received in respect of monies invested by the Bank

(b) all monies raised for the purposes of the Bank by way of gifts, loans, grants-in-aid, testamentary dispositions or otherwise;

(c) monies borrowed from any source approved by the Board; and

(d) such other monies as may, from time to time, accrue to the Bank.

## **18. Expenditure of the Bank**

The Bank may, from time to time, apply the proceeds of the fund established in pursuance of section 17 (1) of this Act—

(a) to the cost of administration of the Bank;

(b) to paying or reimbursing members of the Board or of any committee set up by the Board for expenses as may be expressly authorised by the Board;

- (c) to the payment of the salaries, fees or other remuneration, allowances, pensions and gratuities payable to the officers and other employees of the Bank;
- (d) for the maintenance of any property vested in the Bank;
- (e) to the payment of all expenses incurred on behalf of the Bank; and
- (f) to and in connection with performing all or any of the functions of the Bank and the Board.

## **19. Annual accounts of the Bank**

(1) The Board shall, in respect of each year, keep proper accounts of the revenue and expenditure of the Bank and all deposits received and repaid and interests credited to depositors during the year, from the 1st of January to the 31st of December of the same year, together with a statement of the assets and liabilities of the Bank.

(2) The accounts of the Bank kept under subsection (1) of this section shall, after being audited and certified by an auditor appointed from the list and in accordance with guidelines supplied by the Auditor-General for the Federation, be submitted to the Minister and shall thereafter be published by the bank in selected national newspapers for general information

## **20. Annual report**

The Bank shall prepare and submit to the President through the Minister, in such form as the Minister may direct and not later than 30 June in each year, a report on the activities of the Bank during the immediately preceding year and shall include in the report a copy of the audited accounts of the Bank for that year and the Auditor-General's report thereon.

## **PART VIII**

### *Miscellaneous*

## **21. Delegation of Bank's powers to directors, etc.**

(1) Subject to the provisions of this Act, the Bank may delegate to any director, officer, employee or agent of the Bank the powers to perform on behalf of the Bank such of the Bank's functions as it may, from time to time, determine.

(2) A delegation under this section may be revoked by the Bank and no delegation shall prevent the Bank from performing any function so delegated.

## **22. Offices and branches**

(1) The Bank shall have its head office in Abuja and may, subject to the approval of the Board, open branches in other parts of Nigeria.

(2) The Bank may operate a foreign account and appoint agents and correspondents outside Nigeria in accordance with the decisions of the Board.

### **23. Application of Cap. B3**

The Banks and Other Financial Institutions Act shall apply to the Bank in its commercial banking business to the same extent as it applies to banks under that Act and accordingly and in so far as the provisions of the Banks and Other Financial Institutions Act are not inconsistent with those of this Act, the Bank shall, where applicable, comply with the requirements of that Act as if the Bank were a bank to which that Act applies.

[Cap. B3.]

### **24. Service of documents**

A summons, notice or other documents required or authorised to be served on the Bank under the provisions of this Act or any other enactment or law may be served by-

(a) *delivering it to the chairman or the Managing Director of the Bank; or*

(b) by sending it by registered post addressed to the Managing Director at the principal office of the Bank.

### **25. Restriction on execution against the property of the Bank**

In an action or a suit against the Bank, no execution or attachment or process in the nature thereof shall be issued against the Bank, but a sum of money which may by the judgment of a Court be awarded against the Bank shall, subject to a direction given by the Court where notice of appeal has been given by the Bank in respect of the judgment, be paid by the Bank from the general reserve fund of the Bank.

### **26. Exclusion of enactment on the limitation of action**

The provisions of any enactment on the limitation of action shall not apply to the recovery of loans granted under this Act.

### **27. Repeal, savings, etc.**

(1) The Students Loans Board Act (in this section referred to as "the repealed enactment") is hereby repealed and the Students Loans Board established thereunder is hereby dissolved.

[Cap. 422 L.F.N. 1990.]

(2) All assets, funds, resources and other movable or immovable properties which immediately before the commencement of this Act were vested in the Students Loans Board shall by virtue of this Act and without any further assurance, be vested in the Bank.

(3) As from the commencement of this Act-

(a) the rights, interests, obligations and liabilities of the Students Loans Board, under any contract or instrument or at law or in equity are hereby assigned to and vested in the Bank without any further assurance; and

(b) a contract or instrument as is mentioned in paragraph (a) of this subsection shall be of the same force and effect against or in favour of the Bank and shall be enforceable as fully and effectively as if instead of the Students Loans Board the Bank has been named therein or had been a party thereto.

(4) A proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the Students Loans Board in respect of any right, interest, obligation or liability of the Students Loans Board may be continued, as the case may be by or against the Bank.

(5) A determination of a court of law, tribunal or other authority or person made in a proceeding or cause of action referred to in subsection (4) of this section may be enforced by or against the Bank, to the same extent that the proceeding, cause of action or determination could have been continued commenced or enforced by or against the Students Loans Boards aforesaid if this Act had not been made.

(6) Notwithstanding the repeal of the enactment referred to in this section, if the Board thinks it expedient that any vacancy in the Bank should be filled by a person holding office at the commencement of this Act in the Students Loans Board, it may employ that person by way of transfer to the Bank and the previous service in the Students Loans Board by the person shall count as service for the purposes of any pension subsequently payable by the Bank.

(7) A loan granted to a student by the Students Loans Board shall be deemed to be granted by the Bank under this Act and shall, accordingly, be recovered by the Bank.

(8) The Minister, if he thinks fit, may, within the twelve months after the commencement of this Act, by order published in the *Gazette*, make additional transitional or saving provisions for the better carrying out of the objectives of this section.

## **28. Regulations**

The Board may, with the approval of the Minister, make regulations—

- (a) for the granting of loans, advances and for the making of the deposits;
- (b) setting out the relationship between the Bank and other banks;
- (c) specifying the terms, conditions, rates of interest, fees and administrative charges in respect of advances, credits, guarantees and any other transaction which the Bank may undertake, from time to time;
- (d) specifying the securities that may be required for loans to be granted by the Bank;
- (e) for any other matter that may be incidental or supplemental to the functions of the Bank under this Act; and
- (f) generally for giving full effect to the provisions of this Act.

## **29. Interpretation**

In this Act, unless the context otherwise requires—

**“Bank”** means the Nigerian Education Bank established by section 1 of this Act;

**“Board”** means the Board of Directors of the Bank constituted under section 4 of this Act;

**“Central Bank”** means the Central Bank of Nigeria established under the Central Bank Act;

[Cap. C4.]

**“chairman”** means the chairman of the Board;

**“director”** means any director appointed under section II (1) of this Act and includes the Managing Director;

**“Managing Director”** means the Managing Director of the Bank appointed under section 11 (1) (a) of this Act;

**“Minister”** means the Minister charged with responsibility for education.

### **30. Short title**

This Act may be cited as the Nigerian Education Bank Act.

#### SCHEDULE

[Section 2 (6).]

#### *Proceedings of the Board*

**1.** Subject to this Act and section 27 of the Interpretation Act the Board may make standing orders regulating the proceedings of the Board and of any committee of the Board, and in particular, as respects-

[Cap. 123.]

- (a) the holding of meetings;
- (b) notices to be given of those meetings and the proceedings thereat;
- (c) the keeping of minutes, and the custody, production and inspection of those minutes; and
- (d) the opening, keeping, closing and auditing of accounts.

**2.** A meeting of the Board shall be presided over by the chairman or, if the chairman is unable to attend any particular meeting, by another member appointed by the members present at the meeting, to act as chairman for that particular meeting.

**3.** The quorum at a meeting of the Board shall be the chairman (or, in an appropriate case, the person appointed to act as chairman under paragraph 2 of this Schedule) and six other members.

**4.** Where standing orders made under paragraph 1 of this Schedule provide for the Board to co-opt persons who are not members of the Board, those persons may advise the Board on any

matter referred to them by the Board, but shall not be entitled to vote at a meeting of the Board or count towards a quorum.

### *Committees*

**5.** (1) 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.

(2) A committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board, and not more than one-third of those persons may be persons who are not members of the Board; and a person other than a member of the Board shall hold office on the committee in accordance with the terms of the letter by which he is appointed.

(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

### *Miscellaneous*

**6.** The affixing of the seal of the Bank shall be authenticated by the signatures of the Chairman or another member of the Board authorised, either generally or specially, by the Board to act for that purpose, and of the Managing Director or some other person authorised either generally or specially by the Board to act for that purpose.

**7.** A document purporting to be an instrument issued by the Bank and to be sealed with the seal of the Bank authenticated in the manner provided by this paragraph, or to be signed by the Managing Director, shall be received in evidence and be deemed to be the instrument without further proof, unless the contrary is shown.

**8.** A contract or an instrument which, if made or executed by a person not being a body corporate would not be required to be under seal, may be made or executed on behalf of the Bank by a person authorised either generally or especially by the Bank to act for that purpose.

**9.** The validity of a proceeding of the Board shall not be affected—

(a) by a vacancy in the membership of the Board; or

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

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

**10.** A member of the Board and a person holding office on a committee of the Board, who has a personal interest in a contract or an arrangement entered into or proposed to be considered by the Board or the committee shall forthwith disclose his interest to the Board or committee and shall not vote on any question relating to that contract or arrangement.

### *List of Subsidiary Legislation*

1. Nigerian Education Bank (Additional Savings Provisions) Order.

## **NIGERIAN EDUCATION BANK (ADDITIONAL SAVINGS PROVISIONS) ORDER**

[S.I. 1 of 1994.]

under section 27 (8)

[10th January, 1994]

[Commencement.]

### 1. **Saving of acts, etc., done**

The repeal of the Students Loans Board Act by section 27 (l) of the Nigerian Education Bank Act shall not affect any act or thing done or purported to be done under the Students Loans Board Act.

[Cap. 422 L.F.N. 1990. Cap. N104.]

### 2. **Citation**

This Order may be cited as the Nigerian Education Bank (Additional Savings Provisions) Order.