

**A LAW TO SUBSTITUTE THE KADUNA STATE
PENSION REFORM LAW 2007 (AS AMENDED)**



Kaduna State of Nigeria

Law No. 2 2016

(1st March 2016)

Date of Commencement

BE IT ENACTED by the House of Assembly of Kaduna State as follows:

Enactment

1. This Law may be cited as the Kaduna State Pension Reform Law, 2016.

Short Title and Commencement

2. This Law shall come into operation on the 1st day of March 2016.

Commencement

3. In this Law unless the context otherwise requires:

Interpretation

“Act” means the Pension Reform Act, 2014;

“Board” means the Pension Fund Management Board established under Section 20 (2) of this Law;

“Bureau” means the Bureau of Pension established under Section 19 of this Law;

“Commission” means the National Pension Commission established under Section 17 of the Act;

“Court of competent jurisdiction” includes the Federal High Court, High Court of the State and the National Industrial Court;

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

"Employee" means any person employed in the Public Service of the State;

"Employer" means the Government of Kaduna State and includes the 23 Local Government Councils in the State;

"Lump Sum" means fifty percent (50%) of the total amount standing to the credit of the retiree;

"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;

"Pension Assets" means all assets set aside as retirement benefits;

"Pension Fund" means an investment fund within the Pension Scheme which is intended to accumulate during an individual's working life, from contributions and investments 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 Fund Administrator" means any corporate body licensed by the Commission as a Pension Fund Administrator;

"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 10 of this Law;

"Public Service of the State" is as defined in Section 318 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

"Retirement Savings Account" means an Account opened with a Pension Fund Administrator as specified in Section 15 of this Law;

"Scheme" means the Contributory Pension Scheme established under Section 6 of this Law;

"State" means Kaduna State of Nigeria.

4. The objectives of this Law are to: Objectives of the Law
 - (a) establish a uniform set of rules, regulations and standards for the administration and payment of retirement benefits for the Public Service of the State;
 - (b) make provisions for the smooth operations of the Contributory Pension Scheme in this Law referred to as the Scheme;
 - (c) ensure that every person who worked in the Public Service of the State 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.

5. The provisions of this Law shall apply to any employment in the Public Service of the State. Scope of Application

6. There is hereby established for every employment in the Public Service of the State, a Contributory Pension Scheme for the payment of retirement benefits of employees to whom the Scheme applies under this Law. Establishment of a Contributory Pension Scheme

7. (1) Subject to such rules, regulations and standards as may be prescribed by the Commission, the contribution of any employee to whom the Law applies shall consist of: Rates of Contribution to the Scheme
 - (a) a minimum of thirteen percent (13%) of the monthly emolument of the employee to be contributed by the employer; and
 - (b) a minimum of seven percent (7%) of the monthly emolument of the employee to be contributed by the employee.

- (2) The rates of contributions mentioned in subsection (1) of this Section may, upon agreement between the employer and employee, be revised upwards from time to time, and the Commission shall be notified of such revision through the Bureau.
 - (3) Notwithstanding any of the provisions of this Law, an employer may:
 - (a) agree 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 (20%) of the monthly emoluments of the employee.
 - (4) 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.
 - (5) Subject to such guidelines as may be issued, from time to time, by the Commission, any person who is not ordinarily covered under Section 5 of this Law shall be entitled to make voluntary contribution under the Scheme.
8. (1) Notwithstanding the provisions of subsection (2) of Section 6 of this Law, any employee who is entitled to retirement benefits under any pension scheme existing by 31st day of December, 2016 shall be exempted from this Scheme.
- (2) The categories of persons mentioned in Section 291 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), shall be exempted from the Scheme.
- (3) Any person who falls within the provisions of subsection 1 and 2 of this Section shall continue to derive retirement benefits under the existing Pay-As-You-Go Pension

Exemptions from the Scheme

Scheme of the Public Service of the State as amplified in the Second Schedule to the Act.

(4) Nothing in this Law shall preclude the right of any person mentioned in subsection (1) and (2) of this Section to be paid his pension as and when due.

9. (1) Subject to subsection (2) of this Section, as from the commencement of this Law, no retiree shall be entitled to make any withdrawal from his Retirement Savings Account opened under section 15 of this Law, unless he has attained the age of 50 years.

Withdrawal from
Retirement Savings
Account

(2) Notwithstanding the provisions of subsection (1) of this Section, any employee who:

(a) is retired on the advice of 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) is retired due to his total or permanent disability either of mind or body; or

(c) retires 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 this Law.

(3) The Medical Board or a suitably qualified Physician may, at the request of a retired employee, such request to be made not more than once in every two years, review the fitness of such employee and where the Medical Board or Physician certifies that he is mentally and physically capable of carrying out the functions of his office, such employee may re-enter the Scheme upon securing another employment.

(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 to 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 two (2) months of such disengagement may make withdrawals from his Retirement Savings Account in accordance with the provisions of this Section.

10. (1) A holder of a Retirement Savings Account, shall upon retirement or attaining the age of 50 years, whichever is later, utilise the amount credited to his Retirement Savings Account for the following benefits:

Retirement
Benefits

(a) withdrawal of a lump sum from the total amount credited to his Retirement Savings Account, provided that the amount left after the lump 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 to time;

(b) programmed monthly or quarterly withdrawals calculated on the basis of an expected life span;

(c) annuity for life purchased from 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.

(2) Where an employee voluntarily retires, disengages or is disengaged from employment as provided for under Section 9 (2) and (5) of this Law, the employee may with the approval of the Bureau, withdraw an amount of money not exceeding 25% of the total amount credited to his Retirement Savings Account, provided that such withdrawals shall only be made after two (2) months of such retirement or cessation of employment and the employee does not secure another employment within the period of two (2) months after the retirement or cessation of employment.

(3) Where an employee has accessed the amount standing in his Retirement Savings Account pursuant to subsection

(2) of this Section, such employee may subsequently access the balance in the retirement savings account in accordance with subsection (1) of this Section.

11. (1) Where an employee dies, his entitlements under the Life Insurance Policy maintained under Section 7 (4) of this Law shall be paid by the underwriter to the named beneficiary in line with Section 57 of the Insurance Act. Death of an Employee
- (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 Bureau, release the amount standing in the Retirement Savings Account of 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.
12. Notwithstanding anything to the contrary contained in any other Law, 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 enquiry set up by the Bureau concluded that it is reasonable to presume that he has died, the provisions of Section 11 of this Law shall apply. Missing Employee
13. (1) Notwithstanding the provisions of any Law, contributions to the Scheme under this Law shall form part of tax deductible expenses in the computation of tax payable by an employer or employee under the relevant Income Tax Law. Retirement Benefits not Taxable
- (2) All interests, dividends, profits, investment and other income accruable to pension funds and assets under this Law shall not be taxable.
- (3) Any amount payable as a retirement benefit under this Law 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 7 (6) of this Law 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.

14. Notwithstanding anything under any Law, contribution by an employee to the Scheme under this Law shall form part of deductible expenses in the computation of tax payable by such employee under the relevant income tax Law.

Contribution to be Part of Tax Deductible Expenses

15. (1) Every employee shall maintain an account (in this Law referred to as Retirement Savings Account), in his name, with any Pension Fund Administrator of his choice.

Retirement Savings Account and Remittance of Contribution etc

- (2) The employee may, not more than once in a year, transfer the Retirement Savings Account maintained under subsection (1) of this Section from one Pension Fund Administrator to another without adducing any reason for such transfer.

- (3) The employee shall notify his employer of the Pension Fund Administrator chosen by him and the identity of the Retirement Savings Account opened in his name under subsection (1) of this Section.

- (4) 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 both the employee's contribution deducted 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.

- (5) Upon receipt of the contributions remitted under subsection (4) (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.

- (6) Where an employee fails to open a 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.
- (7) An employer who fails to deduct or remit the contributions within the time stipulated under subsection (4) (b) of this Section shall in addition to making the remittance already due, be liable to a penalty to be stipulated by the Bureau.
- (8) The penalty referred to in subsection (7) of this Section shall not be less than two percent (2%) of the total contributions that remain unpaid for each month or part of each month the default continues and the amount of the penalty shall be recoverable as a debt owing to the employee's Retirement Savings Account as the case may be.
- (9) An employee shall not have access to his Retirement Savings Account or have any dealings with the Pension Fund Custodian with respect to the Retirement Savings Account except through the Pension Fund Administrator.
- (10) The Bureau 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 (7) of this Section.
- (11) Contributions by the employers to the Pension of employees in its Service and any deduction from source for the monthly contributions of the employee shall be a charge on the Consolidated Revenue Fund of the employers and shall be deductible therefrom.
- (12) The Accountant General of the State shall, immediately upon the request of the Commission, effect the deductions mentioned in subsection (11) of this Section.
- (13) The 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 a Retirement Savings Account.

16. Where an employee transfers his service or employment from one employer or organisation to another, the same Retirement Savings Account shall continue to be maintained by the employee. Transfer from One Employment to Another
17. (1) Subject to Section 8 (1) of this Law, the accrued pension right of any employee who is already under any pension scheme existing before the commencement of this Law and has one year or less to retire shall: Transfer of Entitlement from Defined Benefits Scheme
- (a) in the case of State Government employees, be recognised in the form of an amount acknowledged through the issuance of bond to be known as Kaduna State Government Retirement 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 18 of this Law. The amount so redeemed shall be added to the Retirement Savings Accounts of the employee and applied in accordance with the provisions of Section 10 of this Law; or
- (b) in the case of a Local Government employees, be recognised in the form of an amount acknowledged through the issuance of a bond to be known as Local Government Retirement 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 18 of this Law. The amount so redeemed shall be added to the Retirement Savings Accounts of the employee and applied in accordance with the provisions of Section 10 of this Law.
18. (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 Retirement Benefits Bond Redemption Fund (in this Law referred to as "the Redemption Fund") in respect of the Public Service of the State. Retirement Benefits Bond Redemption Fund
- (2) The State Government and each Local Government in the State shall pay into the Redemption Fund an amount not

less than five percent (5%) of the total monthly wage bill payable to employees in the service of the State Government and such Local Government.

- (3) The Central Bank shall invest and manage the fund under the joint supervision of the State Government and the Commission.
- (4) The amount in the Redemption Fund shall be used by the Central Bank of Nigeria to redeem any retirement benefit bonds issued pursuant to Section 17 of this Law.
- (5) The Commission shall, upon the failure of the State Government or Local Government to redeem any bond issued within one month of its due date, demand such redemption in writing from the State Government or such Local Government.
- (6) Upon the failure of the State Government or a Local Government to redeem the bond within one month of the receipt of the Commission's demand, the Commission shall issue a request of the Accountant General of the Federation who shall thereafter deduct directly from the State or Local Government allocation from the Federation Account with the Central Bank of Nigeria or the Retirement Savings Account maintained by the affected employee with his Pension Fund Administrator.
- (7) Payments into the Redemption Fund shall cease after all Retirement Benefit Bonds issued under Section 17 of this Law have been redeemed.

19. (1) There is established for the Public Service of the State:
- (a) a Bureau of Pension which shall be a body corporate with perpetual succession and a Common Seal;
 - (b) sue or be sued in its corporate name;
 - (c) acquire, hold any movable or immovable property for the purpose of its functions under this Law.
- (2) The Bureau shall be under the Office of the Governor.

Establishment of Bureau
of Pensions

(3) The Bureau shall regulate, supervise and ensure the effective administration of Pension matters in the State.

20. (1) The Bureau shall be headed by an Executive Secretary who shall be an officer not below the rank of a Permanent Secretary.

Composition of the Bureau

(2) The Bureau shall have a Board consisting of:

- (i) the Executive Secretary of the Bureau as Chairman to be appointed by the Governor;
- (ii) an Officer not below the rank of a Director from the State Civil Service Commission;
- (iii) an Officer not below the rank of a Director from the Local Government Service Commission;
- (iv) an Officer not below the rank of a Director from the State Ministry of Finance;
- (v) an Officer not below the rank of a Director from the State Ministry for Local Government;
- (vi) an Officer not below the rank of a Director from the State Ministry of Justice;
- (vii) a representative of the Nigeria Union of Pensioners, Kaduna State Chapter;
- (viii) a representative of the Nigeria Labour Congress, Kaduna State Council;
- (ix) a representative of the Trade Union Congress, Kaduna State Council;
- (x) a representative of the Nigeria Union of Teachers, Kaduna State Chapter;
- (xi) a representative of the State Chapter of the National Union of Local Government Employees, Kaduna State Chapter;

- (xii) three representatives appointed by the Governor with expertise in Public Administration, pensions, actuarial sciences, law or finance, one of whom shall be a woman.
 - (3) The principal objective of the Board shall be to supervise and ensure the effective administration of the Contributory Pension Scheme.
 - (4) The Board shall meet at least once every quarter.
21. The Bureau shall carry out the functions of the defunct State Pension Department and Local Government Pensions Board, and shall in particular:
- Functions of the Bureau
- (a) carry out periodic actuarial valuations of pension liabilities and make budgetary estimates for existing pensioners and officers exempted from the Scheme under Section 8 of this Law;
 - (b) receive budgetary allocations from the Government and make payments to the pensioners as and when due;
 - (c) ascertain deficit in pension payments, if any, to the existing pensioners or the categories of officers exempted under Section 8 of this Law and carry out such other functions aimed at ensuring the welfare of pensioners as the Government may from time to time, direct;
 - (d) pay gratuity and pension to the existing pensioners and the category of officers exempted under Section 8 of this Law, in accordance with the relevant and applicable computations under the existing Pay-As-You-Go Pension Scheme of the State Public Service;
 - (e) establish and maintain a database of all Pensioners and contributors under the Contributory Scheme;
 - (f) receive and review complaints on the Contributory Scheme from the Departments and advice the Governor accordingly;

- (g) monitor compliance levels and appraise the effectiveness of the operations of the Contributory Scheme within the State, with a view to making suggestion for improvement to the Governor; and
- (h) monitor, assess and evaluate the activities and performance of the Pension Fund Administrators from time to time and advise the Governor accordingly.

22. The Bureau shall:

- (a) take reasonable care to ensure that the management or safe keeping of the pension funds by the Pension Fund Administrators is carried out in the best interest of the employees;
- (b) report to the Commission as soon as reasonably practicable, any unusual occurrence with respect to the pension funds which in its view could adversely affect the rights of the employee under the Scheme;
- (c) report to the Governor as soon as reasonably practicable, if the employer is in default of remittance of any contributions and such remittance remains due for a period of more than fourteen (14) days; and
- (d) notwithstanding Section 15 subsections (7) and (12) of this Law, the Governor shall direct the Accountant-General of the State to effect such deductions from any fund standing to the credit of the defaulting employer within seven (7) days.

23. (1) There is established under the Bureau for the Public Service of the State the following:

Establishment of
Departments

- (a) Department of State Pensions,
- (b) Department of Local Government Pensions.

(2) Each Department shall be headed by an Officer not below the rank of a Director.

24. (1) The Bureau may, from time to time, appoint such other categories of employees as may appear to it expedient

Other Staff of the Bureau

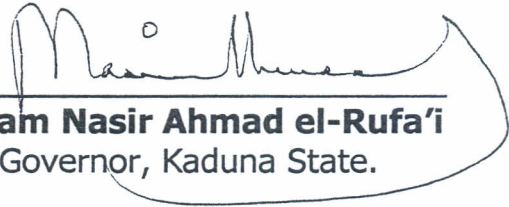
and necessary for the proper and efficient performance of its functions under this Law.

- (2) The Staff appointed under subsection (1) of this Section shall be on such terms and conditions of service as applicable to Civil Service.
25. As from the commencement of this Law, the responsibilities, funds, assets or liabilities of all existing Pension Offices in Public Service of the State shall be vested in the Bureau as provided under this Law. Funds and Assets, Existing Pension Offices etc
26. (1) The Commission shall regulate and supervise the activities of the Bureau in order to ensure compliance with the provisions of the Law. Commission to supervise Bureau
- (2) The Commission may, at the request of the Bureau, render technical support and advice on the management of Pension matters.
27. Where an employee exempted under Section 8 of this Law dies in service or in the course of duty, the Bureau shall pay, en-bloc to his next-of-kin or designated survivors, gratuity and pension to which the employee would have been entitled at the date of his death calculated in accordance with Section 21 (d) of this Law. Death of Exempt employee in Service etc.
28. Where an employee exempted under Section 8 of this Law is retired by his employer as a result of mental or physical incapacity, the employee shall be paid gratuity and pension in accordance with Section 21 (d) of this Law. Retirement of Exempt employee
29. (1) The Bureau shall cause to be kept proper books of accounts and records showing its income, expenditure, assets, investments made, returns on investments made and the contributions of employees in its respective Service as the case may be. Books of Accounts to be Kept and Audited
- (2) The Bureau shall, not later than four months from the end of the financial year, cause its accounts to be audited by qualified external auditors.

Redemption Fund as appropriate by the Pension Fund Administrators at the commencement of this Law.

36. If any other Law relating to pensions in the State is inconsistent with this Law, this Law and that of the Act, the provisions of the Act shall prevail to the extent of the inconsistency.
37. (1) All funds accumulated under the repealed Law are hereby saved and shall be applied as specified in Section 35. Savings
- (2) All actions taken in pursuance to the Repealed Laws shall be deemed to have been made under this Law.
38. The Pension Reform Law, Law No. 4, Laws of Kaduna State, 2007 as amended by the Kaduna State Pension Reform (Amendment) Law, 2015 is hereby repealed. Repeal

DATED AT KADUNA this^{26th}..... day of*February*..... 2016.

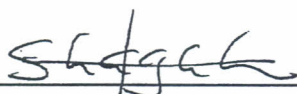

Malam Nasir Ahmad el-Rufa'i
Governor, Kaduna State.

EXPLANATORY NOTE

(This note does not form part of this Law and has no legal effect)

The purpose of this Law is to repeal the Kaduna State Pension Reform Law, 2007 as amended.

This printed impression has been carefully compared with the Bill which has passed the Kaduna State House of Assembly and found to be true and correctly printed copy of the said Bill.



HON. AMINU ABDULLAHI SHAGALI
(Speaker)



UMMA ALIYU HIKIMA Esq.
(Clerk to the Legislature)