Knowledge Exchange

OALP Client Update

Olaniwun Ajayi LP

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THE PENSION REFORM ACT 2014

Introduction

The President of Nigeria, President Goodluck Johnathan, on 1 July 2014, signed the Pension Reform Bill 2014, into law. The Act repeals the Pension Reform Act No. 2 of 2004 (the 2004 Act). Broadly, the aim of the Act is to establish a uniform set of rules, regulations and standards for the administration and payment of retirement benefits; enhance protection of pension funds and assets and also tighten loose ends found in the 2004 Act, which crippled the regulatory and enforcement activities of the National Pension Commission (PENCOM).

Undoubtedly, the Act is bound to have widespread implications upon business planning, recruitment and retention strategies, it is thus imperative that our clients are well informed of the crucial changes introduced by this law, highlights of which are below.

Highlights Of The Act

The main revisions introduced by the Act are as follows:

- The minimum contribution of employers and employees to the pension scheme has been increased from 7.5% (of the employee's monthly emoluments) each, to a minimum of 12% and 8% respectively.
- A private sector entity is now subject to the scheme where it has three (3) or more employees, whereas the minimum threshold under the 2004 Act was five (5) employees.
- Where an employee fails to open a Retirement Savings Account (RSA) within a period of six months after assumption of duty, his employer shall, subject to guidelines issued by PENCOM, request a Pension Fund Administrator (PFA) to open a nominal retirement savings account for such employee, for

the remittance of his pension contributions.

- An employee who retires before the age of 50 can now withdraw 25% of his entitlement, four months after retirement, as opposed to the six month waiting period provided under the 2004 Act.
- The Act now contains provisions that will enable the creation of additional permissible investment instruments to accommodate initiatives for national development, such as investment in the real sector, including infrastructure and real estate development. This is provided without compromising the paramount principle of ensuring the safety of pension fund assets". This provision further fortifies the pension assets against mismanagement and/or systemic risks.
- The Director-General of PENCOM needs to have only 15 years' experience in pension matters as opposed to the 20 years required under the 2004 Act.
- Any PFA, Pension Fund Custodian (PFC), person or body who misappropriates or diverts pension funds is liable upon 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.
- There is a provision of five years imprisonment or ₦10 million fine for any PFA who fails to remit profits earned from an investment made with the fund of a contributor, and a fine of ₦500,000 daily for any agency administering pension affairs which fails to abide by any provision of the Act.
- The Act also empowers PENCOM, subject to the fiat of the Attorney General of the Federation, to commence criminal proceedings against employers who persistently fail to deduct and/or remit pension contributions of their employees within the stipulated time. This provision was absent in the repealed 2004 Act.

For further information please contact:

Ayodeji Arowolo
Mariam Olafuyi
Mami Obla

Olaniwun Ajayi LP
The Adunola,
Plot L2,
Banana Island,
Ikoyi, Lagos.
+234 1 270 2551

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