

NATIONAL HOUSING FUND ACT

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NATIONAL HOUSING FUND ACT

An Act to provide for the establishment of the National Housing Fund and for matters connected therewith.

[1992 No.3.]

[31st January, 1992]

[Commencement.]

1. Establishment of the National Housing Fund

(1) There is hereby established a fund to be known as the National Housing Fund (in this Act referred to as "the Fund").

(2) All contributions and other monies required or prescribed by this Act shall be paid into the Fund.

2. Aims and objectives of the Fund

The aims and objectives of the Fund shall be to-

- (a) facilitate the mobilisation of the Fund for the provision of houses for Nigerians at affordable prices;
- (b) ensure the constant supply of loans to Nigerians for the purpose of building, purchasing and improvement of residential houses;
- (c) provide incentives for the capital market to invest in property development;
- (d) encourage the development of specific programmes that would ensure effective financing of housing development, in particular low cost housing for low income workers;
- (e) provide proper policy control over the allocation of resources and funds between the housing sector and other sectors of the Nigerian economy; and
- (j) provide long-term loans to mortgage institutions for on-lending to contributions to the Fund.

3. Resources of the Fund

The resources of the Fund shall consist of the following, that is-

- (a) contributions by Nigerians in both the public and private sectors;
- (b) investment in the Fund by commercial and merchant banks;
- (c) investment in the Fund by insurance companies registered under the Insurance Act;
[Cap. 117.]
- (d) financial contributions by the Federal Government for long-term housing loans.

4. Contribution by Nigerian workers

(1) A Nigerian worker earning an income of N3,000 and above *per annum* in both the public and the private sectors of the economy shall contribute 2.5 per cent of his basic monthly salary to the Fund.

(2) An interest rate of 4 per cent shall be payable on contributions made under subsection (1) of this section.

S. Contribution by banks, etc.

(1) Every commercial or merchant bank shall invest in the Fund 10 per cent of its loans and advances at an interest rate of 1 per cent above the interest rate payable on current accounts by banks.

(2) Every registered insurance company shall invest a minimum of 20 per cent of its non-life funds and 40 per cent of its life funds in real property development of which not less than 50 per cent shall be paid into the Fund through the Federal Mortgage Bank of Nigeria (in this Act referred to as "the bank") at an interest rate not exceeding 4 per cent.

(3) Nothing contained in the Insurance Act or relating to investment of insurance companies in real property shall affect the provisions of this Act.

[1991 No. 58.]

6. Contributions by the Federal Government

(1) The Federal Government shall make adequate financial contributions to the Fund for the purpose of granting of long-term loans and advances for housing development in Nigeria.

(2) The Federal Government may also make available such other sums either in naira or foreign currency to the Fund as it may deem necessary.

7. Management of the Fund, etc.

(1) The Fund shall be managed and administered by the bank.

(2) The bank shall ensure that-

- (a) the proceeds from the Fund are utilised to finance the housing sector of the economy through wholesale mortgage lending to primary mortgage institutions;
- (b) the aims, objectives and functions of the Fund are effectively carried out by the bank and mortgage institutions.

8. Utilisation of loan by mortgage institutions

A mortgage institution registered under the Mortgage Institutions Act (in this Act referred to as "mortgage institution") shall utilise the proceeds from the Fund to finance mortgage lending in accordance with the provisions of this Act and the Mortgage Institutions Act.

[Cap. M19.]

9. Deductions by employers from monthly salary of workers

(1) An employer who has in its employment an employee earning a basic salary of ~3,000 and above *per annum* shall deduct 2.5 per cent of the monthly salary of that employee as the employees contribution to the Fund.

(2) The amount deducted pursuant to subsection (1) of this section shall be remitted to the bank within one month of the making of the deduction.

10. Participation in the Fund by self-employed persons

All self-employed persons shall deduct from their monthly incomes the amount stipulated in section 4 (1) of this Act and shall within one month remit same to the bank.

11. Duty of the Central Bank of Nigeria to collect contribution from banks

(1) The Central Bank of Nigeria shall collect from commercial and merchant banks at the end of every year and not later than one month thereafter, the percentage of their contribution to the Fund as specified in section 5 (1) of this Act.

(2) The Central Bank of Nigeria shall within two months of making the collection under subsection (1) of this Act pay the money to the bank for investment in the Fund.

12. Determination of amount due from insurance companies

(1) The Bank shall, at the end of every year after careful examination of the audited annual accounts of each insurance company, determine the amount due from the insurance company and shall issue a demand notice of the amount due from the insurance company for purposes of investment in the Fund.

(2) The insurance company shall on the receipt of a demand notice from the bank pay the amount within one month of the demand into the Fund.

(3) Failure by any insurance company to pay to the bank any amount due under subsection (2) of this section shall be regarded as a contravention of this Act and shall constitute one of the grounds for which the Commissioner for Insurance may cancel the registration of an insurance company in default.

13. Bank to pay money received into the Fund

All monies received by the bank under this Act shall be credited to the Fund immediately on receipt.

14. Beneficiaries under the Fund

(1) A mortgage institution duly licensed under the Mortgage Institutions Act shall qualify for loans from the Fund, on such terms and conditions as the Minister may, from time to time, by regulations published in the *Gazette*, specify.

[Cap. M19.]

(2) Any loan obtained by a mortgage institution under subsection (1) of this section shall be made available to contributors wishing to build, purchase or renovate houses.

(3) The Minister may by regulations published in the *Gazette* specify the manner in which and the conditions and terms of repayment of any loan obtained pursuant to subsection (2) of this section.

15. Security for Fund facilities

(1) Any loan obtained from a mortgage institution shall be secured by a first mortgage.

(2) Any loan granted by the bank to a mortgage institution shall be secured by a block of existing mortgages under cover of Sales and Administration Agreement to be executed between the bank and the mortgage institution.

(3) The Sales and Administration Agreement referred to in subsection (2) of this section shall be registrable in the Land Registry along with the Deed of Assignment of Mortgages to which the Agreement relates.

16. Interest rate

(1) The loans made by the bank shall be at interest rates slightly lower than the prevailing commercial rates in Nigeria.

(2) The interest rate for each loan shall be fixed for the duration of the loan.

(3) The bank shall charge a mortgage institution not more than one percentage point above its borrowing rate.

(4) Mortgage institutions shall be allowed a minimum spread off our percentage points above the rate charged by the bank.

17. Refund to a contributor after retirement from office, etc.

Any contributor who has not obtained a housing loan from the bank and has-

- (a) attained the age of 60 years; or
- (b) retired from his employment and becomes incapable of continuing the contribution to the Fund as specified in this Act,

shall be eligible to a refund of his contribution within three months of the application at the rate of interest prescribed by the Minister.

18. Inspection

The bank shall have a right of access at all reasonable times to offices, books of account and documents relating to deductions made in accordance with this Act by any employer or self-employed person and may make any examination and inquiry necessary to obtain information for the purposes of this Act.

19. Rendering of accounts

(1) The bank shall render periodic account on the Fund to the Central Bank of Nigeria, in such form as the Minister may direct.

(2) The bank shall render annual returns to all contributors showing, amongst other things, total contributions, accrued interests and balance to date.

(3) A mortgage institution which has obtained a loan from the bank shall render quarterly returns to the bank in such form and manner as the Minister may, from time to time, specify.

20. Offence and penalty for failure by an employer to deduct or pay deductions

(1) An employer who-

- (a) fails to make deductions from the basic salaries of his employees as required by this Act; or
- (b) deducts any sum of money from the basic salaries of his employees for the purpose of the Fund and fails to remit the money so deducted to the bank,

is guilty of an offence under this Act.

(2) A person guilty of an offence under subsection (I) of this section is liable on conviction, in the case of-

- (a) a body corporate, to a fine of N50,000; and
- (b) an individual who is a staff in the employment of an employer and who is authorised to make the deduction or payment to the bank, to a fine of N20,000 or imprisonment for a term of five years or to both such fine and imprisonment.

(3) A self-employed person who fails to make deductions or deducts and fails to remit to the bank any money due to the Fund is guilty of an offence under this Act and liable on conviction to a fine of N5,000 or to imprisonment for a term of one year or to both fine and imprisonment.

(4) A person who prevents or obstructs the deduction or remittance of the contribution due to the bank under this Act is guilty of an offence and liable on conviction to a fine of N5,000 or to imprisonment for a term of one year or to both such fine and imprisonment.

(5) The institution of proceedings or imposition of a penalty under this section shall not relieve any employer or self-employed person from liability to pay to the bank the money deducted by him for the purpose of the Fund.

21. Offence of making false statement or misrepresentation, etc.

A person who for the purpose of evading payment of any deduction or contribution made by him or some other person or who for the purpose of obtaining any benefit for himself or some other person under the Fund, knowingly makes-

- (a) any false statement; or
- (b) misrepresentation; or
- (c) produces or furnishes any document or information which he knows to be false in any material particular,

is guilty of an offence under this Act and liable on conviction to a fine of N10,000 or to imprisonment for a term of three years or to both such fine and imprisonment.

22. Failure to produce document

A person who fails to produce any document for inspection under this Act is guilty of an offence and liable on conviction in the case of-

- (a) a body corporate, to a fine of N50,000;
- (b) an individual, to a fine of N5,000 or imprisonment for a term of one year or to both such fine and imprisonment.

23. Exemption from payment of income tax

The Fund and the refund of any contribution made under this Act shall be exempted from payment of income tax.

24. Jurisdiction

The Federal High Court shall have jurisdiction to try all offences under this Act.

25. Regulations

The Minister may, on the recommendation of the bank, make such regulations as may be necessary for the implementation of this Act.

26. Interpretation

In this Act, unless the context otherwise requires-

"bank" means the Federal Mortgage Bank of Nigeria;

"contributions" means deductions made from the basic monthly salaries of workers in accordance with the provisions of this Act;

"contributor" means a worker from whose basic salary or income deductions are made and paid into the Fund in accordance with the provisions of this Act;

"Minister" means the Minister charged with responsibility for housing;

"mortgage institution" means a mortgage institution licensed under the Mortgage Institutions Act;

[Cap. M19.]

"retail mortgage lending" means the system of lending money to contributors by mortgage institutions under this Act or under any regulations made thereunder;

"wholesale mortgage lending" means the system of lending money to mortgage institutions under this Act, or regulations made thereunder;

"worker" means an employee to whom salaries are paid and includes a self-employed person who derives income from his employment.

27. Short title

This Act may be cited as the National Housing Fund Act.

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

- I. Terms and Conditions for Obtaining Loans from the National Housing Fund by Mortgage Institutions and Individual Contributors Regulations.

TERMS AND CONDITIONS FOR OBTAINING LOANS FROM THE NATIONAL HOUSING FUND BY MORTGAGE INSTITUTIONS AND INDIVIDUAL CONTRIBUTORS REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

Terms and conditions for obtaining National Housing Fund Loans by mortgage institutions

REGULATION

- I. Method of application.
2. Security for the loan.
3. Disbursement conditions.
4. Repayment.

PART II

Terms and conditions for obtaining National Housing Fund Loan by individual contributors

5. Method of application and qualification to borrow
6. Extent of loan.
7. Security for a loan.
8. Disbursement condition.
9. Repayment.
10. Citation.

TERMS AND CONDITIONS FOR OBTAINING LOANS FROM THE NATIONAL HOUSING FUND BY MORTGAGE INSTITUTIONS AND INDIVIDUAL CONTRIBUTORS REGULATIONS

[S.1. 15 of 1996.]

under section 14 (3)

[5th March, 1996]

[Commencement.]

PART I

Terms and conditions for obtaining National Housing Fund Loans by Mortgage Institutions

1. Method of application

(I) A Mortgage Institution seeking a loan from the Fund shall apply to the bank.

(2) The Mortgage Institution shall submit its loan application to the bank in conjunction with applications received for loans from individual contributors as a basis for the extent of facility requested from the Fund against which the loan shall be disbursed.

(3) No Mortgage Institution shall, in any given year, be granted an amount more than 50 per cent of its share holders' fund.

2. Security for the loan

(1) A loan granted to a Mortgage Institution under the Act shall be secured by a block of existing mortgages previously granted by the Mortgage Institution which shall have been created by the Mortgage Institution with or without financing from the Fund.

(2) A Mortgage Institution shall, at the same time requesting for a loan, execute with the bank a Sales and Administration Agreement and Deed of Assignment in such forms as may be prescribed by the bank, from time to time, stamped and registered in the Lands Registry.

(3) Where a waiver is not given, the Mortgage Institution shall bear the cost of stamping and registration at the Lands Registry.

(4) The bank may require a Mortgage Institution to execute a floating charge over its assets.

3. Disbursement conditions

(1) To safeguard the resources of the Fund and prevent misallocation or diversion of loans, the bank shall-

- (a) make disbursements to a Mortgage Institution on presentation of an acceptable security as stipulated in regulation 2 of these Regulations;
- (b) demand the immediate repayment of the loan with interest thereon and payment of a penalty of 200 per cent of the interest differential between the market rate and the Fund rate from a Mortgage Institution which misallocates or diverts its loan;
- (c) suspend the Mortgage Institution from further borrowing from the Fund for a period of six months and cause it to remain suspended until it complies with the provisions of paragraph (1) (b) of this regulation and thereafter for a further period of six months.

(2) Loans to a Mortgage Institution shall be released in accordance with disbursement plans agreed between the bank and the Mortgage Institution.

(3) All disbursements from the Fund shall be by cheque or any other acceptable instrument of settlement.

(4) The bank shall, for services rendered in granting a loan to a Mortgage Institution, charge not more than 0.25 per cent of the loan which shall include legal, survey and administrative charges but shall exclude stamping, registration and other statutory fees.

4. Repayment

(1) A Mortgage Institution shall repay monthly, to the bank, a loan granted under the Act whether or not repayments are collected from borrowers by the Mortgage Institution.

(2) A loan granted from the Fund to a Mortgage Institution shall be repayable over a maximum period of 25 years.

(3) Interest rates shall be as prescribed by the National Housing Fund Act 1992.

(4) A Mortgage Institution which is in default of repayment for a period of three months shall be refused further access to the Fund.

PART II

Terms and conditions for obtaining National Housing Fund Loan by individual contributors

5. Method of application and qualification to borrow

(1) A prospective borrower from the Fund shall apply in such form as may be prescribed by the bank to a duly licenced Mortgage Institution:

Provided that the applicant for the loan shall be a contributor to the Fund and shall have contributed for a period of not less than six months.

(2) A borrower shall be required to have a stable employment and shall show good prospect of continued employment and, in the case of a self-employed person or non-salary earner, satisfactory evidence of regular flow of income shall be required.

(3) Not more than 13% of the income of the borrower shall be considered for a loan repayment.

(4) No individual shall qualify to borrow more than once from the Fund,

6. Extent of loan

(1) The loan ceiling from the Fund to an individual borrower shall be N500,000 or such other sum as the Minister may, from time to time, prescribe.

(2) The loan to be granted to an individual shall not exceed 90 per cent of the cost or value of the property to be mortgaged, whichever is lower; and of this loan, 80 per cent shall be provided by the Fund and 20 per cent by the Mortgage Institution.

7. Security for a loan

(1) A loan granted under the Fund shall be secured by a first legal mortgage of the property which shall be a residential accommodation.

(2) There shall be a legal report by the bank on the acceptability or otherwise of the title.

(3) The mortgage deed shall be required to be stamped and registered at the Lands Registry.

(4) Where a waiver is not given, the borrower shall bear the cost of stamping and registration at the Lands Registry.

(5) The property shall conform to the existing planning laws and regulations.

(6) The property shall possess sufficient value to recover the loan.

(7) In the case of property under construction, the cost of completion of outstanding works shall be required to be specified.

(8) A mortgage property shall be insured against hazards.

8. Disbursement condition

(1) No loan shall be made for refinancing.

(2) A loan under the Fund shall be for the purpose of building, purchasing or renovating a residential accommodation.

(3) To avoid misuse of the loan disbursement the Mortgage Institution shall ensure that-

- (a) in the case of an out-right purchase, payment is made in lump-sum;
- (b) in the case of a building under construction, improvement of restructuring, the loan disbursement shall be on a schedule to be agreed with the Mortgage Institution;
- (c) a loan granted but not disbursed within two months shall be reported to the bank; and
- (d) all disbursements shall be made by crossed cheques, marked "account payee only".

(4) Mortgage Institutions shall, for services rendered in granting a loan to an individual, charge a fee not more than 0.5 per cent of the loan which shall include legal, survey and administrative charges but shall exclude stamping, registration and other statutory fees.

9. Repayment

(1) A loan granted by a Mortgage Institution shall be repayable over a maximum period of 25 years.

(2) Interest rates shall be as prescribed by the National Housing Fund Act 1992.

(3) Loan recovery shall be by monthly instalments as may be agreed by the borrower and the Mortgage Institution.

10. Citation

These Regulations may be cited as the Terms and Conditions for Obtaining Loans from the National Housing Fund by Mortgage Institutions and Individual Contributors Regulations.