

Revised Regulation on the Administration of Retirement and Terminal Benefits

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KPMG Nigeria

The National Pension Commission (PenCom or “the Commission”) recently issued a *Revised Regulation on the Administration of Retirement and Terminal Benefits (“the Revised Regulation”)*. The Revised Regulation replaced the erstwhile Regulations for the Administration of Retirement and Terminal Benefits under the repealed Pension Reform Act (PRA), 2004, and sets out the procedures for application of the relevant sections of the PRA, 2014 to be adopted by Pension Fund operators for the administration of retirement and terminal benefits under the Contributory Pension Scheme (CPS).

We have highlighted below some of the significant provisions in the Revised Regulation:

1. Scope and Objectives

The Revised Regulation covers Retirement Savings Account (RSA) holders and/ or beneficiaries who are employees in the private and public sectors, the Federal Capital Territory, and States and Local Governments that have adopted the CPS. It provides the framework for the administration of benefits, including documentation, consolidation of funds in the RSA and payment under the different modes of benefits payment. The Revised Regulation also defines terms not interpreted under Section 120 of the PRA such as benefits withdrawal, death benefits, enbloc payment, mandatory retirement, etc., and expanded the definitions of some terms already included in the PRA, including annual total emolument, employer, pension fund custodian and retirement savings account.

Although the definitions are meant to provide clarifications on the relevant terms, it must be noted that the Revised Regulation cannot amend, replace, or vary the PRA which is an Act of the National Assembly. Therefore, the interpretation of terms in the PRA supersedes identical terms defined in the Revised Regulation.

2. Rules of General Application

The Revised Regulation provides guidelines for accessing retirement benefits by an employee/ retiree on grounds of mandatory retirement, compulsory retirement, retirement on medical grounds and temporary loss of employment/ disengagement. Particularly, Paragraph 2.1 of the Revised Regulation mandates Pension Fund Administrators (PFAs) to contact retiring employees not less than four (4) months to retirement and ensure that the retirees are acquainted with the CPS Retirement

Pack at least three (3) months to the date of retirement. This is in addition to the existing requirement for RSA holders to notify the PFA of the impending retirement.

In line with the PRA, the Revised Regulation provides that retirees may only access their retirement benefits upon consolidation of their RSA, which consists of accrued pension rights or pre-Act benefits (for employees that were in employment before the commencement of the CPS in 2004), employer/ employee pension contributions, returns on investment, and the fixed portion of voluntary contributions. PFAs are also required to liaise with employers and other relevant parties to ensure that all entitlements of a retiree or deceased person are accounted for during consolidation of the RSA. Further, the Commission mandates that requests for retirement benefits must be finalized within six (6) working days from completion of documentation, with two (2) working days each assigned to PFAs for submission of completed documentation, approval and/or rejection of the PFAs request by the Commission, and payment of retirement benefits to the RSA holder by the PFA.

The Revised Regulations further specifies the returns to be rendered on PenCom’s Risk Management Analysis System by PFAs and Pension Fund Contributors (PFCs).

3. Modes of Accessing Retirement Benefits

The Revised Regulation provides two modes of receiving periodic retirement benefits, namely, Programmed Withdrawal (PW) and Retiree Life Annuity (RLA). The PFAs are required to duly enlighten prospective retirees on the features of the two modes and provide hard copies of the CPS Retirement Packs.

The Revised Regulation also precludes employers, PFAs, RLA Providers, Insurance Brokers and Agents from compelling prospective retirees to choose any of the approved modes of receiving retirement benefits. Further, the Revised Regulation requires the Commission to provide PFAs with the Standard Retirement Benefit Computation (SRBC) template, which will be updated periodically, for use in the computation of retirement benefits. The SRBC template will contain mortality table, assumed rate of return and applicable commission or fee to be charged by the PFAs.

A retiree who opts for a PW is required to execute a PW Agreement with the PFA in the format provided by the Commission. The Consent Form signed by the retiree will include the agreed lump sum, monthly/ quarterly pension (within the limits approved by the Commission) and any pension enhancement with the PFA. This should resolve the issues in respect of retirees above 50 years who intend to utilise the PW as they can now agree the percentage of lump sum withdrawal with the PFAs in the executed Consent Form.

4. Documentation Requirements for Processing Benefits From RSA

The Revised Regulation outlines the documents to be provided by RSA holders when processing retirement benefits, depending on the retirement conditions. For instance, varying documents are required for processing benefits under mandatory retirement, compulsory retirement, retirement on medical grounds, in cases of deceased and missing persons, and for temporary loss of employment.

Notably, the Revised Regulation simplifies the requirements for individuals seeking access to 25% of their RSA balance after temporary loss of employment

before the age of 50. In the past, RSA holders were required to provide a letter of acceptance of resignation or disengagement issued by their employer to access the 25% balance. However, the Revised Regulation now provides that the failure of an employer to respond to a PFA's request for confirmation of the employee's resignation within thirty (30) days will be construed as acceptance of the employee's resignation for the purpose of benefits payment, with the acknowledged copy of the PFA's letter sufficing as proof in this regard.

Additionally, the Revised Regulation lists the documentation requirements for accessing Nigeria Social Insurance Trust Fund contributions, pre-Act benefits, voluntary contributions, and contributions under the micro-pension plan.

5. Procedure for Processing Benefits

Paragraph 4 of the Revised Regulation details the procedure for processing and calculating PW or RLA based on the SRBC Template issued by the Commission. In line with the PRA, the Revised Regulation allows retirees to withdraw a lump sum upon confirmation that the residual amount in the RSA will be sufficient for programmed withdrawals or life annuity. The Revised Regulation further upholds the rights of the retiree to decide on the periodicity of pension payment, while restricting the PFAs from altering the agreed payment structure without consent of the retiree and the Commission.

Further, the Revised Regulations allows for additional lump sum payments to retirees provided that additional remittances are made into a retiree's RSA. However, the additional remittances must first be applied to increase pension up to 50% of the retiree's final salary while the balance may be paid out as a lump sum. Where the retiree's pension is already up to 50% of his final salary, the retiree may choose to collect the entire additional remittances as lump sum.

The Revised Regulation also outlines the conditions and procedures for accessing contributions of deceased and missing persons, payment of Nigeria Social Insurance Trust Fund benefits, pre-Act benefits, voluntary contributions in accordance with the Commission's voluntary contribution guidelines, and contributions under the micro pension plan, in line with the PenCom Guidelines for Micro Pension Plan, 2018.

6. Administrative Sanctions

The Revised Regulations imposes new administrative sanctions pursuant to Section 102 of the PRA, which empowers PenCom to issue additional sanctions on defaulting boards, directors, management, or officers of PFAs and PFCs.

The sanctions, which may be one-off or cumulative depending on the default, were introduced to ensure prompt submission of payment requests to the Commission, discourage delays in payment of retirement benefits or payment of retirement benefits without the approval of the Commission, failure to educate retirees on retirement payment plans, over/ underpayment of benefits, and submission of incorrect information to the Commission.



Commentary

We commend PenCom for the publication of its Revised Regulation which highlights the Commission's plan for a better structured retirement benefit system. The Revised Regulation clearly outlines procedures for accessing RSA funds pursuant to the provisions of the PRA 2014, and emphasizes the Commission's commitment to upholding the rights of RSA holders through improved documentation requirements and introduction of steep penalties for defaulting PFAs.

It is hoped that eligible retirees will, in practice, have a seamless access to their retirement benefits as intended by the Revised Regulation.

Please click [here](#) to read the Revised Regulation.

