



THE INDUSTRIAL  
TRAINING FUND

**AMENDMENT**

**ACT, 2011**



# **INDUSTRIAL TRAINING FUND (ITF)**



## **(AMENDMENT) ACT, 2011**



## (AMENDMENT) ACT ARRANGEMENT OF SECTIONS

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### SCHEDULE

Constitution, proceedings, etc, of the Industrial Training  
Fund Governing Council



## 1. Establishment of Industrial Training Fund

There is hereby established a fund to be known as the Industrial Training Fund (in this Act referred to as "the Fund") into which shall be paid-

- a. all contributions prescribed by this Act;
- b. such sums as may be provided for that purpose by the Federal Government; and
- c. funds provided by the Federal Government for the students Industrial Work Experience Scheme: Provided that such fund shall be channeled through its parent Ministry.

## 2. Utilization of the Fund

The Fund shall be utilized to-

- a. provide, promote and encourage the acquisition of skills in industry and commerce with a view to generating a pool of indigenous trained manpower sufficient to meet the needs of the private and public sectors of the economy.
- b. provide training for skills in management for technical and entrepreneurial development in the public and private sectors of the economy;
- c. set training standards in all sectors of the economy and monitor adherence; and



- d. evaluate and certify vocational skills acquired by apprentices, craftsmen and technicians in collaboration with relevant organizations.

### 3. Establishment of the Industrial Training Fund Governing Council

- 1) There shall be, for the purpose of administering the Fund in accordance with the provisions of the Act, a body to be known as the Industrial Training Fund Governing Council (in this Act referred to as "the Council").
- 2) The Council shall be a body corporate with perpetual succession and a common seal.
- 3) The provisions of the Schedule to this Act shall have effect with respect to the constitution of the Council and its proceedings and other matters therein contained.

### 4. Powers of the Council

The Council shall have powers-

- (a) to provide or secure the provision of such courses and other facilities (which may include residential accommodation) for the training of persons employed or intending to be employed in industry and commerce as may be required, having regard to any courses or facilities available to such person;



- (b) to approve such courses and facilities provided by other persons;
- (c) from time to time, to consider the employment in industry and commerce as appears to require special consideration and publish recommendations with regard to the nature and length of the training for any such employment and further education to be associated with the training, the persons to and by whom the training ought to be given, the standards to be attained as a result of the training and the methods of ascertaining whether those standards have been attained;
- (d) to apply or make arrangements for the application of selection tests and of tests or other methods for ascertaining the attainment of any standards;
- (e) to assist persons in carrying on research into any matter relating to training for employment in industry and commerce.
- (f) to carry on or assist persons in carrying on research into any matter relating to training for employment in industry and commerce.

**The Council shall have power –**

- a) to acquire and hold property, whether movable or immovable,



- b) enter into contracts.

## **5. Director-General and other Officers of the Fund**

(1) The Minister may, with the prior approval of the President appoint a fit person to be called the Director-General of the Industrial Training Fund who shall be the Chief Executive and Administrative Head of the Fund and, subject to the directions of the Council, shall be responsible:-

- a) for the assessment of contributions under this Act and for the collection and payments of moneys into the Fund;
- b) for the payment of all disbursements authorized under or by virtue of this Act;
- c) for accounting for all moneys collected, paid or otherwise expended under this Act;
- d) for ensuring the achievement of the aims of this Act.

(2) The Council may, from time to time, appoint officers, agents or employees of the Fund to assist the Director-General in the performance of his duties under this Act, who shall be subject to the general control of the Director-General.

## **6. Liability to contribute to the Fund**

- 1) Every employer having either 5 or more employees in its establishment, or having less than 5 employees but with a



turnover of N50m and above per annum, shall, in respect of each calendar year and or the prescribed date, contribute to the Fund one per centum of its total annual payroll.

- 2) Any supplier, contractor or consultant bidding or soliciting contracts, businesses, goods and services from any Federal Government Ministry, Department, Agency, commercial, industrial and private entity shall fulfill the statutory obligations of its employees with respect to payment of training contribution to the Fund.
- 3) Any liable organization, public or private including companies situate in the Free Trade Zones requiring approval for expatriate quota and/or utilizing custom services in matters of export and import, must show proof of compliance with this Act in respect of payment of training contribution of its employees and all regulatory agencies of the Federal Government shall ensure compliance with section 6 (1)-(3) of this Act
- 4) The Ministry may, with the approval of the Federal Executive Council, by order published in the Gazette, vary the rate of contribution prescribed in sub-section (1) of this section.

## **7. Refund**

- (a) The Council may make a refund of up to fifty per centum of the amount paid by an employer if the Council is satisfied that the training programme of the employer is in accordance with the Fund's reimbursement schemes.





- (b) The Council shall notify the Federal Board of Inland Revenue of any refund made pursuant to this Act.

**8) Duty of employers to train indigenous staff, etc.**

- (1) All employers who pay their annual training contributions-
- (a) shall, at all times, provide adequate training for their indigenous staff with a view to improving on the skills related to their job and evidence of such training shall be forwarded to the Council;
  - (b) shall accept students for industrial attachment purposes.
- (2) Any employer who is in breach of the provision of subsection (1) of this section shall be guilty of an offence under this Act and liable on conviction -
- a) in the case of a body corporate to a fine of N500,000.00 (Five Hundred Thousand Naira) for the first breach and N1,000,000.00 (One Million Naira) for each subsequent breach, and
  - b) in the case of Chief Executive, Secretary or other Principal Officers of the Company, to a fine of N50,000.00 ( Fifty Thousand Naira) or two years imprisonment for a first breach and three years imprisonment without option of a fine for each subsequent breach.



## **9. Penalty for non-payment**

- (1) If any contribution is not paid within the time prescribed in the Act, a sum equal to five per centum of the amount unpaid shall be added for each monthly or part of a month after the date on which payment should have been made.
- (2) Notwithstanding the provisions of sub-section (1) of this section, the Director- General may, if he thinks fit, waive in whole or in part, any penalty imposed under this section.

## **10. Accounts and Audit**

- (1) The Council shall keep proper accounts and proper records in relation thereto, and shall prepare in respect of each financial year, a statement of accounts in accordance with the relevant laws of the Federal Republic of Nigeria.
- (2) The Council shall as soon as may be, after the end of each financial year to which the accounts relate cause the accounts to be audited by auditors appointed from a list and in accordance with the guidelines prepared by the Auditor-General of the Federation.
- (3) The auditors shall on the completion of the audit of the accounts of each financial year, prepare and submit to the Council a report setting out their observations and recommendations on all aspects of the accounts of the Council for that year, and the Council shall forward a copy of the report to the Minister.



## 1. Civil Proceedings

- 1) Notwithstanding any other provisions of this Act, a contribution to the Fund shall be recoverable by actions as a debt owing to the Fund at any time within Six years from the date when the contribution became due.
- (2) Any action for the recovery of contributions under this section may be instituted by the Council, Director-General, agents or officers of the Fund on behalf of the Director-General, and where the action is instituted in a magistrate Court, any person authorized by this subsection may appear and conduct the case.
- (3) For the purposes of this section, "contribution" includes underpayment or for late payment, as the case may be.

## 12. Certificate as Evidence

A copy of an entry in the accounts of Fund or other extracts from the records of the Fund shall, when certified by the Director-General be received in all courts as prima facie evidence of the truth of the contents thereof, and as the case may be, of the debt owed the Fund by any person.

## 13. Power of the courts to decide in disputes relating to liability

If any question of fact arises as to the liability of an employer to pay contribution under this Act, the question shall be determined by the court.



## 14. Returns

The Director-General may require any employer to furnish such returns and other information and to keep such records and produce them for examination by or on behalf of the Director-General as appears to the Director-General to be necessary for carrying out his functions under this Act.

## 15. Offences

- (1) If any employer fails, neglects or refuses to furnish the required returns specified in section 14 of this Act, the Director-General of the Fund or any staff authorized on his behalf shall be and is hereby empowered to assess, according to his best of judgment, the appropriate contribution the employer shall pay to the Fund; but such assessment shall not affect the authority of the Director-General or any staff authorized on his behalf to assess the actual amount of the employer's liability when the employer subsequently makes its returns.
- (2) **Any person who-**
  - (a) knowingly or recklessly furnishes, in pursuance of any requirement under section 14 of this Act, any returns or information which is false in a material particular; or
  - (b) willfully makes a false entry in any record required to be produced under that section or with intent to deceive, makes use of any entry which he knows to be false, shall be guilty of an offence.



- (3). Any person who is found guilty of an offence under subsection (2) of this section shall be liable on conviction;
- (a) in the case of a body corporate to a fine N500,000.00 (Five Hundred Thousand Naira) for a first offence and N1,000,000.00 (One Million Naira) for each subsequent breach, and
  - (b) in the case of the Chief Executive, Secretary or other Principal Officers of the company, to a fine of N50,000.00 (fifty thousand Naira) or two years imprisonment for a first offence and three years imprisonment without option of fine for each subsequent offence.

## 16. Interpretation

In this Act, except where the context otherwise requires: "**Contribution**" includes underpayment and any interest or penalty payable or for late payment as the case may be;

"**The Council**" means the Industrial Training Fund Governing Council established under Section 3 of this Act;

"**Director-General**" means the Director-General of the Fund appointed under section 5 of this Act.

"**Employees**" means all persons whether or not they are Nigerians, employed in any establishment in return for salary, wages or other consideration and whether employed full-time or part time, and includes temporary employees who work for periods of not less than thirty days.



**"Employer"** means any person engaged in industry or commerce with whom an employee entered into a contract of wages or remuneration to the employee;

**"The Fund"** means the Industrial Training Fund established under this Act;

**"The Minister"** means the Minister charged with the responsibility for Industry;

**"Payroll"** means the sum total of all basic pay, allowances and other entitlements payable within and outside Nigeria to any employee in an establishment, public or private;

**"The prescribed date" means-**

- (a) in respect of year two thousand and eleven, means a date not later than three months from the date of commencement of this Act; and
- (b) in respect of every subsequent year, means a date not later than 1<sup>st</sup> April of the following year.

**17. Short Title**

This Act may be cited as the Industrial Training Fund (Amendment) Act.



## **SCHEDULE**

### **Constitution, etc., of the Industrial Training Fund Governing Council**

- 1. The Governing Council shall consist of thirteen members to be appointed by the Minister and shall comprise;**
  - a. The Chairman;**
  - b. The Director-General;**
  - c. One representative each, from the following Ministries-**
    - (I) Industry;**
    - (ii) Education;**
    - (iii) Labour and Productivity;**
    - (iv) National Planning Commission;**
    - (v) Budget office of the Federation.**
  - d. One representative of the Nigeria labour Congress/ Trade Union Congress in rotation for one year at a time;**
  - e. One representative of the National Employers Consultative Association;**
  - f. One representative of the National Association of Chambers of Commerce, Industries, Mines and Agriculture;**
  - g. One representative of Manufacturers Association of Nigeria;**



- h. One representative with extensive knowledge of and close association with industrial training; and
- i. Two persons who shall not come from the same state, to represent the states for two years at a time.

(1) The President shall, on the advice of the Minister, appoint the Chairman of the Council.

- (2) The Minister shall convene the first meeting of the Council.
- 3. The Council shall appoint a Vice-Chairman from its members not being a member representing the same interest as the Chairman.
- 4. The fixing of the seal of the Council shall be authenticated by the signature of the Chairman of the Council and such other person as may be authorized in that behalf by the Council.
- 5. Any contract or 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 Council by any person specially or generally authorized to act for that purpose by the Council.
- 6. Anything required to be done by the Council, in relation to any powers or duties of the Council under this Act, may be signified under the hand of the Chairman or of the Director-General.





7. Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.
8. Except as otherwise provided in this Act, the provision of section 26 of the Interpretation Act shall apply to the service of process, if the notice or other document to be served is addressed in accordance with the provision of that Act.
9. Any member appointed under paragraph 1 (d) to (h) of this Schedule shall hold office for two years and shall be eligible for reappointment.
10. Without prejudice to section 11 of the Interpretation Act (which relates to appointment), a member of the Council may at any time by notice in writing addressed to the Minister resign his office, and if a member becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister may remove that member from his office.
11. Subject to paragraph 2 of this Schedule, the Council shall meet quarterly or at least twice each year.
12. Every meeting of the Council shall be presided over by the Chairman, or if the Chairman is unable to attend any particular meeting, by the Vice-Chairman



- (1) Subject to the provisions of this Act and of section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the Chairman to have a second or casting vote), the Council may make standing orders regulating its proceedings.
- (2) The quorum for any meeting of the Council shall be five, representing at least three interest groups.
- (3) The validity of any proceedings of the Council shall not be affected-
  - (a) by any vacancy in the membership of the Council.
  - (b) by any defect in the appointment of a member.
  - (c) by reason of the fact that any person not entitled to do so took part in the proceedings.
4. A member of the Council shall be paid out of the moneys at the disposal of the Council, such remuneration and allowances in accordance with Financial and Administrative Guidelines of the Federation.



**INDUSTRIAL TRAINING FUND  
(AMENDMENT) ACT**

**SUBSIDIARY LEGISLATION**

**NO SUBSIDIARY LEGISLATION**