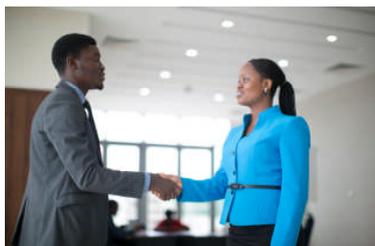


NSITF and NECA agree the basis for employee compensation contributions



The Nigeria Social Insurance Trust Fund (NSITF) recently entered into an agreement with the Nigeria Employers' Consultative Association (NECA) on the basis for calculating contributions under the Employees' Compensation Act (ECA) 2010.

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Background

The ECA was signed into law in January 2011 and gazetted in July 2011. This had caused a controversy in the past with respect to the effective date for the commencement of the law. NSITF and NECA had previously agreed to a forbearance of outstanding contributions for the period from 1 July 2011 to 31 December 2011 for members of NECA.

To further clarify issues around the interpretation of the ECA, NSITF and NECA recently entered into a new agreement effective from 1 January 2017.

The NSITF is the statutory body charged with the responsibility of administering the ECA while NECA is a body of employers in Nigeria.

Highlights of the Agreement

- The agreement reiterated the forbearance period for NECA members and stated that the waiver would be considered on a case by case basis, subject to compliance with the ECA from 1 January 2012.
- Given that the Act does not define "payroll" it was agreed that the definition of remuneration would be used for payroll excluding pension contribution, bonuses, overtime payments, irregular one-off payments like drivers' allowances, etc.
- It was also agreed that response to long standing claims must be resolved within 4 weeks after

receipt of a formal complaint and settled within 2 weeks of submission of relevant documents.

- In addition, the NSITF in collaboration with NECA will continually invest in more training for employers in order to promote safety culture.

Takeaway

It appears NSITF has by entering into this agreement exercised its discretionary powers under Section 31 (e) of the ECA to define payroll under the Act for the purpose of carrying out its functions.

While the intent might have been to provide clarity on past controversies, this agreement with NECA is bound to raise further questions given that not all employers are members of NECA (no law mandates them to be). They may therefore consider the agreement as discriminatory.

To forestall such issues, the definition of 'payroll' for the purpose of contributions under the ECA should be made public and apply to all employers regardless of their affiliations. As a long term solution, the definition should be incorporated into the law, either through an amendment to the Act or subsidiary legislation issued under the powers of the NSITF. This will not only address the issue of fairness but also the question of whether the NSITF has the powers to enter into an agreement to define the basis of ECA contributions.