

Full text of National Housing Fund (Establishment) Act 2018

NATIONAL HOUSING FUND (ESTABLISHMENT) ACT, 2018

EXPLANATORY MEMORANDUM

This Act repeals the National Housing Fund Act Cap. N45, Laws of the Federation of Nigeria, 2004 to provide for additional sources of funding for effective financing of housing development in Nigeria.

NATIONAL HOUSING FUND (ESTABLISHMENT) ACT, 2018

Arrangement of Sections

Section:

1. Establishment of National Housing Fund.
2. Objectives of the Fund.
3. Resources of the Fund.
4. Sustainable development levy.
5. Contribution to the Fund.
6. Investment by banks, insurance companies and Pension Fund Administrators.
7. Contribution of the Federal Government.
8. Deduction by employers from monthly salary of workers.
9. Deduction and remittance of contributions of self-employed persons.
10. Duty of Central Bank of Nigeria to collect contribution from banks.
11. Duty of National Insurance Commission.
12. Duty of National Pension Commission.
13. Duty of Federal Inland Revenue Service to collect the levy.
14. Bank to pay money received into the Fund.
15. Management of the Fund.
16. Utilisation of Loan by Mortgage Institutions.
17. Beneficiaries under the Fund.
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19. Interest on Loan.
20. Refund to a contributor after retirement from office.
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25. Offences of making false statement or misrepresentation.
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27. The Fund and contributions to be exempted from taxes.
28. Jurisdiction.
29. Additional penalty.
30. Power to make regulations.
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(h) provide funding for other activities relating to housing as may be determined and approved by the Bank.

3. The Fund shall consist of:

- (a) contributions by Nigerians, both in 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;
- (d) investment in the Fund by Pension Fund Administrators;
- (e) financial contributions by the Federal Government for long-term housing loans; and
- (f) Sustainable Development Levy (in this Act referred to as "the Levy") on locally produced or imported cement.

Resources of the Fund.

Cap. 117, LFN, 2004.

(1) There shall be paid and credited into the Fund the Levy on locally produced and imported cement at the rate of 2.5% ex-factory price before transportation cost for each bag of 50 kilogramme or its equivalent in bulk.

Sustainable development levy.

(2) Notwithstanding the provisions of subsection (1), the President may, by an Executive Order, add, delete, amend or substitute consumer goods, services or products and approve rates for the levy as and when he thinks fit in the circumstance.

(1) Any employee earning the national minimum wage and above in either the public or private sector in Nigeria shall contribute 2.5% of his monthly income to the Fund

Contribution to the Fund.

(2) Any self-employed person earning the equivalent of the national minimum wage and above shall contribute 2.5% of his monthly income to the Fund.

(3) An interest rate of 2% per annum, or as may be determined by the Bank, shall be payable on the contributions made under subsections (1) and (2).

(4) The Federal Government may make any grant of money to the Fund as it may determine.

(1) Every commercial or merchant bank shall invest a minimum of 10% of its profit before tax into the Fund at an interest rate of 1% above the interest rate payable on current accounts by banks.

Investment by banks, insurance companies and Pension Fund Administrators.

(2) Every registered insurance company shall invest a minimum of 10% of its profit before tax into the Fund at an interest rate not exceeding 1% above the interest rate payable on current accounts by banks.

(3) Nothing contained in the Insurance Act or relating to investment of insurance companies in real property shall affect the provisions of this Act. Cap. 117, LFN, 2004.

(4) Every registered Pension Fund Administrator shall invest a minimum of 10% of its profit before tax into the Fund at an interest rate not exceeding 1% above the interest rate payable on current accounts by banks.

(5) Nothing contained in the Pension Reform Act relating to investment of Pension Fund Administrators in real estate development investments shall affect the provisions of this Act. Act No. 4, 2014.

(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. Contribution by the Federal Government.

(2) The Federal Government may make available such other sums of money to the Fund as it may deem necessary.

(1) An employer who has in its employment an employee earning the national minimum wage and above in both the private and public sectors of the Nigerian economy shall deduct 2.5% of the monthly salary of the employee as the employee's contributions to the Fund. Deductions by employers from monthly salary of workers.

(2) The amount deducted under subsection (1) shall be remitted into the Fund through the Bank, not later than one month from the date of deduction.

(3) An employer shall maintain and keep proper record of the amount deducted and remitted every month for every employee.

(1) The provisions of section 8 (1) and (2) apply to all self-employed persons who shall remit the deduction into the Fund through the Bank every month. Deduction and remittance of contributions of self-employed persons.

(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 6 (1). Duty of the Central Bank of Nigeria to collect contribution from banks.

(2) The Central Bank of Nigeria shall, within one month of making collection under subsection (1), pay the money to the Bank for investment in the Fund.

(3) Any commercial or merchant bank that fails to pay to the Bank any amount due under subsection (1) contravenes this provision.

(4) The Central Bank of Nigeria may cancel the licence of any commercial or merchant bank that contravenes subsection (1).

(1) The National Insurance Commission shall collect, from insurance companies 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 6 (2). Duties of National Insurance Commission.

(2) The National Insurance Commission shall, within one month of making collection under subsection (1), pay the money to the Bank for investment in the Fund.

(3) Any insurance company that fails to pay to the Bank any amount due under subsection (1) contravenes this provision.

(4) The Commissioner for Insurance may cancel the licence of any insurance company that contravenes subsection (1).

(1) The National Pension Commission shall collect, from the Pension Fund Administrators 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 6 (4). Duties of National Pension Commission.

(2) The National Pension Commission shall within one month of making collection under subsection (1), pay the money to the Bank for investment in the Fund.

(3) Any Pension Fund Administrator that fails to pay to the Bank any amount due under subsection (1) contravenes this provision.

(4) The National Pension Commission may cancel the licence of any Pension Fund Administrator that contravenes subsection (1).

(1) The Federal Inland Revenue Service (FIRS) (in this Act referred to as "the Service") shall assess and collect from manufacturing companies and importers the Levy imposed under section 4 (1). Duty of Federal Inland Revenue Service to collect the Levy.

(2) The Service shall pay the Levy collected to the Bank and shall, when doing so, submit to the Bank, in an approved return form showing:

- (a) the name of the company or importer making the payment;
- (b) the amount collected;
- (c) the assessable turnover of the company or importer for the accounting period; and
- (d) any other information as may be required by the Bank for the proper administration of the Levy.

(3) The Levy shall be due and payable within 60 days after the Service has served notice of the assessment on the company or importer in such form as the Service may determine.

(4) Where the Levy is not paid within the time specified in subsection (3), the Service shall serve, on the company or importer, a demand notice for the unpaid Levy plus a sum which is equal to 2% of the Levy.

FORTHERECORD

- (5) Any company or importer that fails, within two months after a demand notice has been given to pay the levy imposed, commits an offence and is liable on conviction to a fine not less than N100,000,000.00, and the chief executive officer, director or every person who was purporting to act in that capacity of the company or importer is liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.
- (6) A person who commits an offence under subsection (5) is liable, on conviction, to a fine of N10,000,000.00 or imprisonment for a term of three years or both.
- (7) The institution of proceeding or imposition of a penalty under this Act does not relieve a company or importer from liability to pay the Service the Levy that may become due under this Act.
14. All money received by the Bank under this Act shall be credited immediately to the Fund on receipt.
15. (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 banks; and
- (b) the objectives and functions of the Fund are effectively carried out by the Bank and mortgage institutions.
16. A mortgage institution registered under the Mortgage Institutions Act (in this Act referred to as "the Mortgage Institution") shall utilise proceeds from the Fund to finance mortgage lending in accordance with the provisions of this Act and Mortgage Institutions Act.
17. (1) A mortgage institution duly licensed by the Central Bank of Nigeria shall qualify for loans from the Fund, on such terms and conditions as the Minister may, by regulations, publish in the Federal Government Gazette.
- (2) Any loan obtained by a mortgage institution under subsection (1) shall be made available to the contributors wishing to build, purchase or renovate houses.
- (3) The Minister may, by regulations published in the Federal Government Gazette, specify the manner, conditions and terms of repayment of any loan obtained under subsection (2).
18. (1) Any loan obtained from a mortgage institution by an individual contributor to the Fund, shall be secured by a tripartite legal mortgage between the individual contributor, the primary mortgage bank and the bank.
- (2) Any housing estate development loan granted to a private developer, housing corporation or housing cooperative shall be secured by any or a combination of:
- (a) a first mortgage on the property to which the loan relates;
- (b) treasury bills;
- (c) title deed of the property owned by the borrower;
- (d) title deed of the property owned by its directors or private developer, housing corporation or housing cooperative;
- (e) debentures, indemnity bonds and any other financial instrument; or
- (f) other securities as may be approved by the Bank.
19. (1) The loans made by the Bank shall be at interest rate lower than the prevailing commercial rates in Nigeria, or as may be determined by the Bank.
- (2) The interest rate for each loan shall be fixed for the duration of the loan.
- (3) The Bank shall charge the mortgage institution not more than 2% point above its borrowing rate or such other percentage as may be determined by the Bank.
- (4) The mortgage institution shall be allowed a minimum spread of 2% point above the rate charged by the Bank or such other percentage as may be determined by the Bank.
- (5) Interest rates on loans obtained for housing estate development from the Bank by estate developer, housing corporation or housing cooperative shall be determined by the Bank.
- (6) Any other term and condition for accessing the loan shall be determined by the Bank.
20. (1) Any contributor who does not have an outstanding loan with the Bank and has attained:
- (a) 60 years of age,
- (b) 35 years of service, or
- (c) such other retirement age or years of service as may be provided in any law in force in Nigeria,
- is entitled to a refund of contribution at an interest rate of 2% per annum, within three months of the application.
- (2) The contributions of a deceased contributor who does not have an outstanding loan shall be paid to his legal personal representatives who present to the Bank, a WSI or

Bank to pay money received into the Fund.

Management of the Fund.

Utilisation of Loans by Mortgage Institutions.

Cap. M19, LFN, 2004.

Beneficiaries under the Fund.

Security for loans from the Fund.

Interest on Loans.

Refund to a contributor after retirement from office.

- Letters of Administration of the estate of the deceased issued from the Probate Registry.
21. The Bank has 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 make any examination and inquiry necessary to obtain information for the purposes of this Act.
22. (1) The Bank shall render a 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 to the Bank quarterly returns in such form and manner as the Minister may specify.
23. (1) An employer who:
- (a) fails to make deductions from the monthly salaries of his employees as required by this Act, or
- (b) deduct any sum of money from the monthly salaries of his employees for the purpose of the Fund and fails to remit the money so deducted to the Bank,
- commits an offence under this Act.
- (2) A person who commits an offence under subsection (1) is liable on conviction, in case of:
- (a) a body corporate, to a fine of N5,000,000; and
- (b) an individual who is a staff in the employment of an employer and who is authorised to make deduction or payment to the Bank, to a fine of N50,000 or imprisonment for a term of five years or both.
- (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, commits an offence under this Act and is liable on conviction to a fine of N100,000 or imprisonment for a term of one year or both.
- (4) A person who prevents or obstructs the deduction or remittance of the contribution due to the Bank under this Act, commits an offence and is liable on conviction to a fine of N50,000 or imprisonment for a term of one year or both.
- (5) The institution of proceedings or imposition of a penalty under this section does 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.
24. (1) A body corporate that contravenes or fails to comply with provisions of this Act commits an offence.
- (2) Where an offence under this Act is committed by a body corporate, every chief executive officer, director or person who was purporting to act in that capacity is liable to be prosecuted against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.
- (3) A person who commits an offence under subsections (1) and (2) is liable on conviction, in the case of:
- (a) a body corporate, to a fine of N100,000,000.00; and
- (b) an individual, to a fine of N10,000,000.00 or imprisonment for a term of three years or both.
- (4) The institution of proceedings or imposition of a penalty under this Act does not relieve a body corporate from liability to pay the amount which is, or may become, due under this Act.
25. 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:
- (a) makes any false statement,
- (b) makes any misrepresentation, or
- (c) produces or furnishes any document or information which he knows to be false,
- commits an offence under this Act and is liable on conviction to a fine of N60,000 or imprisonment for a term of three years or both.
26. A person who fails to produce any document for inspection under this Act commits an offence and is liable on conviction, in the case of:
- (a) a body corporate, to a fine of N1,000,000.00
- (b) an individual, to a fine of N50,000.00 or imprisonment for a term one year or both.
27. The Fund and refund of any contribution made under this Act are exempted from payment of taxes.

Inspector

Rendering of accounts and returns.

Offences and penalties for failure by an employer to deduct and remit deductions.

Offences and penalties for failure of a body corporate to collect or pay contributions.

Offences of making false statements or misrepresentation.

Failure to produce documents.

The Fund and contributions to be exempted from taxes.

26. The Federal High Court has jurisdiction to try all offences under this Act. Jurisdiction.
29. (1) The court, before which any person is convicted of an offence under section 25, may, without prejudice to any civil remedy, order that person to pay to the Fund the amount of any contribution due and any interest or penalty at a prevailing commercial bank rate on the contribution, certified by the Bank to be due from that person to the Fund for the credit of that person and, where applicable, to the credit of the employees concerned. Additional penalty.
- (2) Notwithstanding anything contained in any limitation law or any other law, contributions under this Act, together with any interest or penalty payable, may be recovered by an action at any time within 12 years from the date when the contribution or penalty becomes due.
- (3) An action for the recovery of contribution or other penalty under this section may be instituted in the name of the Bank, any officer in the Bank or other person authorised by the Bank. Power to make regulations.
30. The Minister may, on the recommendation of the Bank, make such regulations as may be necessary for the implementation of this Act. Power to make regulations.
31. (1) The National Housing Fund Act, Cap. N45, Laws of the Federation of Nigeria, 2004 is repealed. Repeal and saving.
- (2) The repealed Act does not:
- revive anything not in force or existing at the time when the repeal takes effect;
 - affect the previous operation of the enactment or anything duly done or suffered under the enactment;
 - affect any right, privilege, obligation or liability accrued or incurred under the enactment; or
 - affect any penalty, forfeiture or punishment incurred in respect of any offence committed under the enactment.
32. (1) There is vested in the Fund established under this Act all assets, funds, resources and other movable and immovable property which, were vested in the former enactment before the commencement of this Act. Transitional provisions.
- (2) All rights, interest, obligations and liabilities existing under the former enactment before the commencement of this Act on any contract or instrument, or in law or in equity, shall, by virtue of this Act, be assigned to and vested in the Fund established under this Act.
- (3) Any contract or instrument referred to in subsection (2) is of the same effect against or in favour of the Fund established under this Act and shall be enforced as fully and

effectively as if, instead of the former enactment existing before the commencement of this Act, the Fund established under this Act has been named or had been a party to it.

- (4) The Fund established under this Act shall be subject to all the obligations and liabilities to which the former enactment existing immediately before the commencement of this Act was subject and all other persons shall, as from the commencement of this Act, have the same rights, powers and remedies against the Fund established under this Act as they had against the former enactment existing before the commencement of this Act.
- (5) Notwithstanding the provisions of this Act, but subject to such directions as may be issued by the Fund established under this Act, a person who, immediately before the commencement of this Act, held office in the former enactment is deemed to have been transferred to the Fund established under this Act on terms and conditions not less favourable than those obtaining immediately before the commencement of this Act, and service in the former enactment is deemed to be service in the Fund established under this Act for purposes of pension.
- (6) Any regulation, order, bye-law or notice made or issued or deemed to be made or issued by or for the purposes of the former enactment before the commencement of this Act is deemed to have been made or issued by or for the purpose of the Fund established under this Act, and shall continue in force until it is revoked or amended, subject to such modifications as may, from time to time, be applicable to the Fund established under this Act.
- (7) The Minister may, within 12 months after the commencement of this Act, by order published in the Federal Government Gazette, make additional transitional or saving provisions for carrying into effect the objectives of this Act.

33. In this Act:

- "Bank" means Federal Mortgage Bank of Nigeria; Interpretation.
- "banks" means commercial and merchant banks;
- "contributions" means deductions made from the monthly salaries of workers and remitted in accordance with the provisions of the 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;
- "housing estate development loan" means the system of lending money to private estate developers, housing corporations or housing cooperatives under this Act or regulations made thereunder for the development of housing by the Bank;
- "Levy" means levy on locally produced or imported cement;
- "Minister" means the Minister charged with the responsibility for matters relating to housing

and urban development and "Ministry" shall be construed accordingly;

"mortgage institution" means a mortgage institution licensed under the Mortgage Institutions Act and certified by the Central Bank of Nigeria to access the Fund for loans for on-lending to contributors; Cap. M19, LFN, 2004.

"National Insurance Commission" means a body corporate charged with the responsibility of regulating the activities of insurance companies;

"National Pension Commission" means a body corporate charged with the responsibility of regulating the activities of the Pension Fund Administrators;

"on-lending" means the system of retail mortgage lending to individual contributors by mortgage institutions under this Act or under any regulation made under this Act;

"Pension Fund Administrator" means any body corporate licensed by the National Pension Commission as a Pension Fund Administrator;

"primary mortgage bank" means primary mortgage institution licensed by the Central Bank of Nigeria;

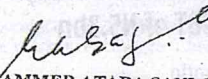
"retail mortgage lending" means the system of lending money to contributors by mortgage institutions under the Act or under any regulation made under this Act;

"Wholesale mortgage lending" means the system of lending money to mortgage institutions under this Act or regulations made under this Act; and

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

34. This Act may be cited as the National Housing Fund (Establishment) Act, 2018. Citation.

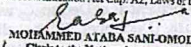
I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.


MOHAMMED ATABA SANI-OMOLORI
 CLERK TO THE NATIONAL ASSEMBLY
 18th DAY OF FEBRUARY, 2019

Schedule to the National Housing Fund (Establishment) Bill, 2018

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
National Housing Fund (Establishment) Bill, 2018.	An Act to repeal the National Housing Fund Act, Cap. N45, Laws of the Federation of Nigeria, 2004 and enact the National Housing Fund Act, to provide for additional sources of funding for effective financing of housing development in Nigeria; and for related matters.	This Bill repeals the National Housing Fund Act Cap. N45, Laws of the Federation of Nigeria, 2004 to provide for additional sources of funding for effective financing of housing development in Nigeria.	6 th November, 2018	17 th July, 2018

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and it is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.


MOHAMMED ATABA SANI-OMOLORI
 Clerk to the National Assembly
 Day of February, 2019

I ASSENT

MUHAMMADU BUHARI, GCER
 President of the Federal Republic of Nigeria
 Day of February, 2019