

EMPLOYEE'S REMUNERATION BILL, 2019

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A BILL

FOR

AN ACT TO PENALIZE ANY EMPLOYER THAT FAILED TO PAY HER EMPLOYEE'S REMUNERATION AS AND WHEN DUE; AND FOR RELATED MATTERS

Sponsored by Jimoh Abdulraheem Olajide

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

- 1 1. The objectives of the Act are to: The objectives of the Bill
- 2 - (1) Prevent employer from owing or withholding his employee's
- 3 remuneration unduly;
- 4 (2) Make payment of employee's remuneration a concern of
- 5 priority in the dealings of government, corporate and individual employers;
- 6 (3) Guarantee prompt and periodic payment of employee's
- 7 remuneration;
- 8 (4) Provide an affordable, accessible, fair and fast system of justice
- 9 for employee's to claim his remuneration.
- 10 2.- (1) Notwithstanding anything contained in any other Act, Law, Application
- 11 Regulation or Order to the contrary, this Act shall apply to all employers and
- 12 employees in the public and private sectors in the Federal Republic of
- 13 Nigeria.
- 14 (2) For the purposes of this Act, the Head of each government
- 15 parasiatal, Agency, body or institution shall be deemed to be the employer of
- 16 the Employees in that parastatal, agency, body or institution.
- 17 3.- (1) The provisions of this Act shall not apply to all employment Exemptions
- 18 by or into the Armed Forces of the Federation or the Nigeria Police Force.
- 19 4.- (1) In every contract of employment for a period which is more Terms of Employment
- 20 than one month, the Employer shall give to her employee, a written terms of

1 employment, not later than 14 working days after the beginning of the
2 employee's period of employment.

3 (2) The written terms of employment shall be a statement specifying
4 the following:

5 (a) the name and address of the employer or group of employers;

6 (b) the name and address of the employee;

7 (c) the address of the place of the Employee's engagement;

8 (d) the date or duration of the employee's engagement;

9 (e) the nature of the employment;

10 (f) the manner in which notice of termination may be given by the
11 party wishing to terminate the contract;

12 (g) the rates of wages, salaries, bonuses etc., method of calculation,
13 manner and period of payment thereof;

14 (h) terms and conditions relating to:

15 (i) hours of work;

16 (ii) overtimes and payment thereof;

17 (iii) holidays, leaves and payment thereof;

18 (iv) any special terms and conditions of work;

19 (i) Signatures of parties.

20 (2) the parties shall have the right to alter or change by mutual
21 agreement, any particular or clause contained in the written terms of
22 employment or to substitute same with a new written terms of employment.

Unlawful of
payment contrary
to agreement

23 5.-(1) It shall not be lawful for the employer to pay an employee's
24 remuneration in any way relating to rates, manner and period of payment other
25 than as contained in the subsisting written terms of employment.

Period of payment
of Remuneration

26 6.-(1) Any agreement for the payment of remuneration in an interval
27 of days which exceeds one calendar month shall be unlawful and void.

Contract of
employment
less than one
month

28 7.-(1) In a contract of employment for a period of one month or less, or
29 in a contract of employment which by its nature a written terms of employment
30 is not reasonable or necessary, remuneration of the employee shall become due

1 and payable at the end of each period for which the contract is expressed to
2 subsist.

3 8.-(1) It shall be unlawful for any employer to refuse or neglect to
4 pay the remuneration of her employee as provided under this Act.

Refusal to pay
Remuneration

5 9.-(1) Where an employee's remuneration is unpaid after the
6 expiration of the period allows by this Act, the employee who desires to
7 claim his entitlement to be remunerated shall serve upon his employer a
8 written demand for the payment of his entitlement.

Written demand
for payment

9 10.-(1) Where a demand is served pursuant to Section 9 of this Act
10 and the employee's remains unpaid after five working days of the service,
11 the employee may apply to court by way of motion on notice for redress.

Application to
Court

12 11.-(1) The National Industrial Court shall have exclusive original
13 jurisdiction in respect of any application brought pursuant to this Act.

Court with
Jurisdiction

14 12.-(1) All applications brought pursuant to Section 10 of this Act
15 shall be dealt with summarily.

Summary
Procedure

16 13.-(1) the Applicant shall file along with his application, an
17 affidavit stating the facts which entitles him to the discretion of the court and
18 his belief that the Respondent has no defence to the application.

Affidavit in
support of
application

19 (2) the Applicant may file a written address along with his
20 application.

21 14.-(1) Service of the application and all other court processes shall
22 be in accordance with the service of Originating Processes and court
23 processes under the Rules of Court.

Service of
Processes

24 15.-(1) The Respondent shall, within 5 working days after being
25 served with the application, file in the registry of the court:

Counter Affidavit

26 (a) An admission of the Applicant's claim, where the Respondent
27 acknowledges her indebtedness to the Applicant;

28 (b) A counter-affidavit, with or without a written address, where
29 the Respondent disputed the Applicant's claim.

Admission	1	16.-(1) In the case where the Respondent admitted the Applicant's
	2	claim, the admission shall contain:
	3	(a) an undertaking to pay the sum due to the Applicant on a date not
	4	later than 7 days from the date of filing his admission, or
	5	(b) a declaration of no means to pay.
	6	(2) where a counter-affidavit is filed under Section 15(a) of this Act,
	7	the court may make order that the Respondent be bind by her undertaking or
	8	make such other order as it deem fit to serve the interest of justice in the case.
	9	(3) where a counter-affidavit is filed under Section 15(b) of this Act,
	10	the court may make an order for the appointment of Receiver for the purposes
	11	of settling the Applicant's claim.
Defence	12	17. The Respondent may dispute the Applicant's claim on any of the
	13	following grounds:
	14	(a) That the Applicant is not entitled to remuneration;
	15	(b) That the Applicant is not her employee.
Reply	16	18. The Applicant shall file his reply, if any, within 3 working days
	17	after the service of the Respondent's counter-affidavit on him.
Production of Records	18	19.-(1) The court may, in chamber, order for the production of an up-
	19	to-date:
	20	(a) record of the Employer's payroll;
	21	(b) Employer's Statement of Account or Estimate of Earnings and
	22	Expenditure; or
	23	(c) Any other documents, records or notices to aid the court in
	24	coming to a just determination of the Application.
Hearing of Application	25	20.-(1) Hearing of the application shall be on affidavit evidence,
	26	whether or not the parties are present in court on the date fix for hearing, but
	27	nothing in this Section shall preclude the court from calling on the parties to
	28	call their witnesses.
Order of Court	29	21.-(1) Upon hearing the parties, the court may make any of the
	30	following orders:

1 (a) An order for payment of the Applicant's remuneration with or
2 without condition;

3 (b) An order for appointment of Receiver;

4 (c) An order that the application be transfer to general cause list for
5 determination of the question on whether or not an employer or employee
6 relationship exists between parties.

7 (d) An order that the employer bear the cost of filing and litigation;

8 (e) An order, whether suo motu or on application, for damages.

9 (f) An order for payment of interest; or

10 (g) Such other orders that the court may deem fit to make in the
11 circumstance of the case.

12 22.-(1) Where a Receiver is appointed pursuant to any order made
13 under this Act, the cost of remunerating the Receiver shall be bear by the
14 Employer.

Remuneration
of Receiver

15 23.-(1) Any party who knowingly supply the court with false
16 information, or with a record which contains false information with the
17 intention that the court should act on it shall be guilty of an offence and on
18 conviction be liable to one month imprisonment.

False information

19 24.-(1) Without prejudice to Section 1 of the Freedom of
20 Information Act, the confidentiality of all information supplied in the
21 Employer's payroll or Employer's Statement of Account or Employer's
22 Estimate of Earnings and Expenditure or any such document tendered in
23 court pursuant to this Act is hereby guaranteed, and same shall not be
24 disclosed except by an order of court following a formal application thereto.

Confidentiality

25 25. Any person, who failed, refused or neglected to comply with
26 any order made by the court under Section 16(2), Section 16(3) and Section
27 18 of this Act shall be guilty of an offence and upon conviction shall be liable
28 to imprisonment of a term not less than 3 months and not exceeding 6
29 months without option of fine.

Non-compliance
by individual

Non-compliance
by Corporate Body
or Government

1 26. Any corporate body, government's parastatal, agency or
2 institution that failed, refused or neglected to comply with any order made by
3 the court under Section 16(1), Section 16(2) and Section 21 of this Act shall be
4 guilty of an offence and upon conviction shall be liable to:

5 (a) Fine of N10,000 for each day of default until the order is fully
6 complied with;

7 (b) Be sealed off for a period of time not exceeding 3 months where
8 the default continues for more than two months; or

9 (c) Committal of every officer or agent of the company, government's
10 parastatal, agency, body or institution who knowingly and willfully authorizes
11 or permits the default or failure to a fine of N10, 000 until the order is complied
12 with.

Service of
penalty

13 27.-(1) service of penalty under Section 26 of this Act shall not
14 amount to the discharge of the order of court not complied with.

15 (2) service of penalty under Sections 25 and 26 of this Act shall not
16 operate as a bar to the Applicant from further moving the court for contempt
17 against the employer that fails to comply with the order of the court.

Protection of
employee

18 28.-(1) The fact that the Applicant apply to court against the
19 Respondent under any Section of this Act shall not be a basis any disciplinary
20 action, query, suspension or dismissal of the Applicant by the Respondent or
21 subsequent Employer of the Applicant.

Priority of payment
of Remuneration

22 29. Payment of employee's outstanding remuneration shall take
23 priority in an event of the employer went insolvent or bankrupt.

Interpretation

24 30. In this Act, unless the context otherwise requires:
25 "Employee" means a person employed by an employer under oral or written
26 contract of employment whether on a continuous, part-time, temporary, or
27 casual basis and includes a domestic servant (who is not a member of the family
28 of the employer), any person employed and exercising administrative,
29 executive, technical or professional functions as public officers or otherwise in
30 the Federal, State and Local Governments, and any of the government agencies

1 and in the formal and informal sectors of the economy;
2 "Employer" includes any individual, body corporate, Federal, State or Local
3 Government or any of the government parastatals, agencies, bodies or
4 institutions who has entered into a contract of employment to employ any
5 other person as an employee;

6 "Remuneration" means the amount of money that is agreed by the Employer
7 to pay to the Employee for the work the Employee has done for the
8 Employer, and this includes salaries, wages, allowances, benefits and
9 bonuses.

10 31. This Bill may be cited as the Employee's Remuneration Bill, Citation
11 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to penalize any employer that failed to pay her employee's remuneration as and when due and provide an affordable, accessible, fair and fast system of justice for employee's to claim his remuneration.

