



# **NIGERIA SOCIAL INSURANCE TRUST FUND**

## **EMPLOYEES' COMPENSATION SCHEME (ECS)**

**(EMPLOYEES' COMPENSATION ACT, 2010)**

## **FREQUENTLY ASKED QUESTIONS (FAQs)**



### ***Construction Workers on Site***

**NSITF VISION:** *“To be the leading Social Security institution in Africa, setting the agenda for change, social policy, economic empowerment and poverty alleviation in Nigeria.”*

**NSITF MISSION:** *“To be proactive in providing social security protection and safety nets for all Nigerians against deprivations and income insecurity in accordance with national and international laws, conventions and world best practices.”*

### **FREQUENTLY ASKED QUESTIONS (FAQs) ON EMPLOYEES’ COMPENSATION SCHEME (ECS)**

---

## A. ABOUT THE SCHEME

**Question 1:** What is Employees' Compensation Act (ECA)?

**Answer:** Employees' Compensation Act is an Act, which establishes a Social Insurance Scheme designed to provide compensation to employees who suffer from occupational diseases, sustain injuries or disability from accident at work place or in the course of employment, whether at usual place of work or outside of it. It also provides compensation to the dependant/s of an employee who dies at or in the course of work.

**Question 2:** What is Social Insurance?

**Answer:** Social Insurance is a method of Social Protection provision, which is financed by contributions made by both employers and employees while in employment, sustained through the pooling of risks and finances and benefits prescribed in the law.

**Question 3:** In general, how can Social Insurance and commercial Insurance services be compared?

**Answer:** Whereas, commercial insurance services which aim at profit maximization, serve the individual, companies and agencies that can pay the required premium; social insurance, is non - profit oriented and serves individuals who may not be able to pay the premium mandatory in commercial insurance.

**Question 4:** What is the goal of Employees' Compensation Act (ECA)?

**Answer:** The goal of ECA is to establish an Employee's Compensation Scheme

**Question 5:** What are the objectives of ECA?

**Answer:** The objectives of ECA are;

- i) To provide a fair, guaranteed and adequate compensation for all insured employees in case of any injury, disease,

---

disability or death arising out of, or in the course of employment.

- ii) To rehabilitate employees who suffer work - related injuries, disabilities, or occupational diseases.
- iii) To establish and maintain a solvent compensation fund, which will be managed in the interest of both employees and employers.
- iv) To provide for a fair and adequate assessment of employers' risk rating and ensure appropriate contribution is paid.
- v) To provide a claims procedure that is simple, fast and less cumbersome for the injured persons, or their dependants in case of death.
- vi) To promote the enforcement of occupational safety and health standards in the workplace.

**Question 6:** Who is an employee, under the Employees' Compensation Act?

**Answer:** An employee is a person employed by an employer under oral or written contract of employment whether on a continuous, part-time, temporary, apprenticeship or casual basis and includes a domestic servant who is not a member of the family of the employer including any person employed in the federal, State and local Governments, and any of the government agencies and in the formal and informal sectors of the economy.

**Question 7:** Who are the stakeholders under the ECA?

**Answer:** The Stakeholders are the three tiers of government (Federal, State and Local Governments), employers and employees in the formal and informal sectors.

## B. **MANAGEMENT OF THE SCHEME**

**Question 1:** Which agency of government manages the Scheme?

---

**Answer:** The Act in Section 2(2) stipulates that the Scheme shall be managed by Nigeria Social Insurance Trust Fund (NSITF). This is in line with section 71(2) of the PRA, 2004 and the provisions of the NSITF Act, 1993, which statutorily empowered NSITF to manage all social security insurance schemes other than pension. The two-pronged mandate suggests that Social Security Schemes (ILO Convention 102) come under the purview of NSITF. The Employees' Compensation Scheme (ECS) is a Work Injury Scheme under the **ILO Convention No.102 of 1952. (Convention on Minimum Standards of Social Security)**.

**Question 2:** How is the ECS managed worldwide?

**Answer:** ECS as a Social Insurance Scheme is managed by Public Agencies to ensure sustainability and in line with ILO standards. However, some countries run an admixture of publicly and privately managed Employees' Compensation Scheme. However, recent developments indicate that even in countries where this is the case, there is a shift back to wholly publicly managed Employees' Compensation Scheme.

**Question 3:** Comparatively, which system has fared better, publicly managed or an admixture of public and privately managed Scheme?

**Answer:** Empirical evidence show that publicly managed Scheme is much more widespread, reaching the grassroots and has fared better in both developed countries and developing economies, because of the wider outreach and social conscience of Government.

### C. **COVERAGE OF THE SCHEME**

**Question 1:** Does the ECA apply to all persons who fall within the definition of "employee" generally?

---

**Answer:** Yes, the ECA covers all persons captured in the definition of ‘employee’ in the enabling Act. Only members of the Armed Forces of the Federal Republic of Nigeria are exempted. [Section 2(1) & (3) of the Act].

**Question 2:** Are self – employed persons covered under the ECA?

**Answer:** The Act defines, “employee” to include those employed in both formal and informal sectors of the economy, hence self-employed persons are covered.

**Question 3:** Does the Act cover casual workers?

**Answer:** Yes, casual workers are covered under the Act. Indeed, the definition of an “employee” in Section 73 of the Act captures them.

#### D. **FUNDING OF THE SCHEME**

**Question 1:** Does the employee have to contribute to the Employees’ Compensation Scheme (ECS) before they can enjoy the benefits under the Scheme?

**Answer:** No, employees’ contribution to the scheme is prohibited.

**Question 2:** How will the ECS be funded?

**Answer:** The ECS will be funded by employers’ contribution.

**Question 3:** What will be employers’ rate of contribution?

**Answer:** The employers’ rate of contribution is 1% of total payroll, consisting of total emoluments.

**Question 4:** Will the proposed Scheme impose any additional financial burden on the employer?

---

**Answer:** No. It will not. Rather, the new Scheme will create employee compensation fund from which adequate compensation shall be paid to the employee entitled thereto or their dependants without having to revert to the employer for funds at the point of injury, death, disability or disease arising out of or in the course of employment (which may be a period of bad business climate for the employer).

**Question 5:** Would it be fair for all categories of employers to pay the same rate of premium, in view of the fact that risks in the work place vary?

**Answer:** At take - off all liable employers would pay the same premium of 1% of total payroll for the first two years. Thereafter, the Act provides for risk assessment with a view to categorizing contributions on the level of risk to which workers are exposed. This implies that some employers would pay lower, or more than 1%, while others would pay exactly 1%. On the long run, there is provision for merit rating for those employers known for high level of safety in the work place with the result that their rate of contribution would be much lower.

**Question 6:** Does contribution by an employer under the Act qualify as tax, since it is compulsory?

**Answer:** No, employer's contribution under the Act does not qualify as tax, because the contribution has direct beneficiaries - the employees who may suffer injuries or diseases in the course of their work, who are in turn motivated to be more productive with the attendant benefits to the employer.

---

**Question 7:** Does the provisions of the ECA preclude an employer from taking insurance policies like group life, or other insurable contingencies for her employees?

**Answer:** No, there is no such provision in the Act. Indeed, the provisions in the Act are supposed to be the minimum cover any employer can give to her serving employees.

E. **COMPARISON BETWEEN EMPLOYEES' COMPENSATION ACT AND THE REPEALED WORKMENS' COMPENSATION ACT**

**Question 1:** In what ways are the Employees' Compensation Act (ECA) different from the Workmen's Compensation Act (WCA), which the former repealed?

**Answer:** The ECA is different from the WCA in the following ways:

- (i) The ECA offers not only better and adequate compensation to employees, or their dependants for any injury, death, disability or disease arising out of, or in the course of employment, but also ensures that such employees are further assisted by counselling and rehabilitation to resume work and in the case of permanent injury, assist the injured worker to buy body parts support. Such is not available under WCA.
- (ii) The ECA provides for speedy and adequate compensation, resolution of disputes without recourse to the courts as obtained under the WCA in which virtually all categories of compensation have to be resolved via law courts.
- (iii) The ECA ensures that funds maintained centrally are always available to pay compensation, regardless of the financial position of the employer at the time of need.
- (iv) Mainly, large organized employers take insurance cover for their employees, others do not. Even when the insurance is taken, disputes take a long time to resolve, thereby subjecting the injured worker to untold hardship under the

---

WCA. But, the ECA is for all categories of employers, including self-employed persons.

- (v) The ECA provides a “**no fault scheme.**” It is a Social Insurance Scheme whose primary objective is to provide a fair and speedy process of payment of compensation and other services to victims of employment injury or disease.
- (vi) The ECA negates the insurance principle of “**no premium no cover**” in that it provides cover for employees of registered and contributing employers, even when such employers have difficulties in paying contributions for the period accident occurred. The onus is on the Employees’ Compensation Act managers to pursue defaulting employers for payment of such outstanding premiums.

**Question 2:** What does the ECA provide in terms of compensation, which the repealed WCA did not?

**Answer:** The ECA provides for cash and non-cash benefit components such as;

- (i) Vocational rehabilitation for any injured employee to assist them in getting back to work, even if it has to be another kind of job suitable for his/her condition (Section 16(i))
- (ii) Counselling services to dependants of the affected worker, while the worker is being rehabilitated (Section 16 (2) in addition to the cash lump sum compensation.
- (iii) Medical, surgical, hospital, nursing and other care or apparatus, including artificial members that are necessary at the time of injury and thereafter are supplied. (Section 26 (1)).
- (iv) Allowance to the injured employee where necessary for sustenance (Section 26(2))
- (v) Replacement and repair of artificial appliances that may be needed by an injured employee

- 
- (vi) Engagement of independent specialists and settlement of medical bills at the Fund's expense (Section 26(3)).

## F. **EMPLOYEES' COMPENSATION ACT VERSUS PENSION REFORM ACT, 2004**

**Question 1:** What does the Pension Reform Act, 2004 (PRA, 2004) say about insurance generally and work injury specifically?

**Answer:** Section 9(3) of the PRA, 2004 mandates employers to buy life insurance policy for their employees, in the value of at least three times the employee's annual total emolument. Such employee's entitlement under the life insurance policy is paid to his/her survivors as pension benefits (S.5(1)), upon his or her death. However, the life insurance policy does not cover injury and diseases suffered at work or in the course of employment. Thus, work injury is a short - term contingency appropriately situated within the purview of Social Security services, other than pension.

**Question 2:** Is there any difference between pension and employees' compensation benefits?

**Answer:** Yes, there is.

- i) The employees' Compensation takes care of the worker at work while pension takes care of the worker after work.
- ii) The compensation is targeted at treating the resultant injury sustained in the course of work; while pension is to take care of other social responsibilities of the worker on retirement or disengagement from work.

**Question 3:** Is there any conflict between the PRA, 2004 and this ECA?

---

**Answer:** No, there is none. The PRA has no provision for the worker while in service, except at retirement. Whereas, the Employees' Compensation Act provides for the worker's welfare while still at work.

## G. **BENEFITS OF THE ECA**

**Question 1:** How does an injured employee or deceased employee's dependant file a claim under the ECA?

**Answer:** An injured employee or deceased employee's dependant must file a claim for compensation by completing appropriate Statutory Forms prescribed by the Board of the NSITF.

**Question 2:** Can an injured employee file a claim for compensation under the ECA as well as sue his employer in the Civil Courts for damages arising from the injury?

**Answer:** No, an injured employee who chooses to sue his employer in the Civil Courts for damages arising from the injury cannot file claim under the ECA, at the same time. Indeed, one of the objectives of ECA is to avoid costly settlement of claims.

**Question 3:** When must an injured employee/deceased employee's dependent file a claim if he wishes to seek compensation under the ECA?

**Answer:** An injured employee or deceased employee's dependant must file a claim for compensation within one year from the date of injury or disability or death, except in special circumstances approved by the Board of NSITF, the claim may be filed within 3 years from that date.

**Question 4:** How does an employer report an accident or injury or death under the ECA?

**Answer:** An employer is obliged to report an accident, injury or death occurring to an employee in such form and manner as

---

prescribed by the Board, i. e. by completing appropriate statutory Forms designed for that purpose.

**Question 5:** Is there any penalty for failure of an employer to report accident or injury/death?

**Answer:** Any employer who fails to make a report as required by the Act commits an offence, punishable under the Act.

**Question 6:** Does an insured person under ECA get benefit if he/she temporarily relocates outside Nigeria under the same employment, for conference/seminar or posting?

**Answer:** As long as the employment is still running and the employer is paying

contributions, he can get benefit, payable at Naira rate.

**Question 7:** If an employee is injured on a public holiday, or weekend, is he entitled to benefit under the ECA?

**Answer:** Yes, insofar as the injury occurred in the course of work under employment.

**Question 8:** What would Government benefit from the ECA?

**Answer:** Governments at the three tiers (Federal, State and Local) stand to benefit the following:

- i. The ECA gives force to the welfarist provisions of the Constitution in Chapter 2.
- ii. Nigeria would join the League of Nations (member of ILO) that care for her workers in the work place.
- iii. A pool of investible funds for socio - economic development shall be created.
- iv. Industrial peace would be promoted, thus economic development would be enhanced.
- v. Other favourable spin-off effects, like more employment, high

---

productivity, (etc) would be enhanced.

- vi. Improved quality of life through prompt response to health challenges at workplace.

**Question 9:** What would employers benefit from the ECA?

**Answer:** Under the ECA, it is a win-win situation for the stakeholders. In particular, the employer stands to gain directly or indirectly from the implementation of the Scheme in the following ways:

- i. It will relieve the employer of the heavy burden of solely taking care of injured worker.
- ii. Maintains payment of compensation whether the employer is liquid or not.
- iii. Payment to the injured worker is made regularly without recourse to the employer, no matter the amount of liability.
- iv. Increased productivity from the workforce.

**Question 10:** What would employees benefit from the ECA?

**Answer:** Employees under the innovative and pro-worker Scheme would benefit as follows:

- i. The missing gap in the PRA which covers only post-work benefit would be filled
- ii. The flaw in the prescribed insurance policy under PRA (failure to cover work injury, but death only) would be redressed
- iii. Claims procedure is simplified and assured
- iv. Cause of injury or who is at fault is irrelevant in making claims  
- **“No Fault Scheme”**

- 
- 
- v. Short and long term follow up and rehabilitation are assured
  - vi. The employee does not contribute to the Scheme, only the employer contributes.

**Question 11:** How will the society benefit from the Act now enacted?

**Answer:** The society at large will enjoy social harmony, peace and socio - economic development devoid of crisis and crimes.

**Question 12:** Under the ECA, is the employer obliged to bear solely the medical cost incurred by an employee?

**Answer:** No, the ECA provides for a pool of funds from which such costs are met, protecting the employer from the burden of bearing such costs by himself.

**Question 13:** In what ways does the pooling of risks affect the employer?

**Answer:** By pooling of risks, the employer is sure that if any major injury occurs to any of his/her employees; the business will not have to close down because of inability to pay huge employee's compensation and/or settle medical bills i.e. the employer's business is indirectly sustained.

**Question 14:** What happens in a situation where the employer has not

---

contributed the sum required to treat the injured worker?

**Answer:** The ECA provides an inbuilt mechanism in its investment strategies

that will take responsibility for employers in such situation but the ECA

managers will be obliged to get the employer to comply and bring their

contributions up - to - date.

**Question 15:** How does the risk pooling affect the worker?

**Answer:** The worker does not suffer by waiting for his compensation and

medical bills, which may be unaffordable by the employer. Such bills are

promptly settled.

#### H. **STAKEHOLDERS' OBLIGATIONS**

**Question 1:** What is the obligation of the employer under the ECA?

**Answer:** The Employer is obliged to report every injury arising out of, or in the course of employment to the NSITF Board and the nearest National Council for Occupational Safety and Health in their States within 7 days of its occurrence. The employer shall also report every disabling occupational disease, or claim for or allegation of an occupational disease within the same period of 7 days of receiving information about the injury or disease.

**Question 2:** What is the obligation of the employee under the ECA?

---

**Answer:** The employee is obliged to inform the employer within 14 days, after occurrence of an injury or disability, or receipt of medical information about contracting occupational disease arising out of, or in the course of work. In the case of death, the dependant will inform the employer appropriately.

**Question 3:** Is there anything in the Act to suggest that the funds will not be mismanaged if NSITF is to be in custody of the funds and operate the Scheme?

**Answer:** The tripartite nature of the Management Board (Labour represented by NLC, Employers represented by NECA and Government represented by Representatives from Ministries of Labour and Finance and Central Bank of Nigeria) is one guarantee.

- The setting up of Independent Investment Committee on which various private bodies and government Agencies are to serve is another.
- The statutory restriction of the Board to ensure investment in only safe ventures e.g. Bonds, Bills Debentures, Real Estate (Social Housing etc), and other Securities issued or guaranteed by the Federal Govt and CBN.
- Furthermore, NSITF is statute bound by Nigeria Fiscal Responsibility Act to transfer certain percentage of its funds or funds not in immediate use into Federal Government Treasury.

**Question 4:** Does the discretion given to the Board of NSITF to decide on a reasonable assessment of an employer, who for any reason was not assessed, portend any danger for employers?

**Answer:** No, it does not. Besides the fact, that such discretion is an exception rather than the rule, the tripartite composition of the Board (which includes NECA, as employers' representative) cannot give room for any such envisaged abuse.

---

---

***Prepared by: Research & Publications Department***