

**KNOW
YOUR RIGHTS
AS AN
EMPLOYEE**

Barrister Manuel Akinshola

**The Complete “Know Your Rights” Titles Under Our
PUBLIC ENLIGHTENMENT CAMPAIGN SERIES (PECS):**

- 1) Know Your Rights As A Tenant (2016 Edition)
- 2) Know Your Rights As A Landlord (2016 Edition)
- 3) Know Your Rights Against The Police And In Court In Criminal Matters (2016 Edition)
- 4) Know Your Fundamental Human Rights Under Nigerian Constitution (2016 Edition)
- 5) Know Your Civil Rights Against Other People (2017 Edition)
- 6) Know Your Rights As An Employee (2017 Edition)
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Preface

The first edition of this book was published in 2009. Between then and now, there have been major changes in some aspects of the law regulating employer/employee relationships. These major changes affected the contents of Chapters 5 and 11 of the 2009 edition.

Chapter 5 of the 2009 edition dealt with the issue of compensation for injuries sustained by workmen in the course of their employment, under the then Workmen Compensation Act (WCA) of 2004. However, the WCA was repealed and replaced by a new law, the Employee's Compensation Act (ECA) in 2010. The most important innovation of the ECA is the establishment of an Employees' Compensation Fund (hereafter referred to as "The Fund"), which consists of all moneys contributed by employers for the payment of compensation to employees for injury, disease or death suffered in the course of employment as well as the take-off grant from the Federal Government, etc. From this Fund, payment of compensation is made to all employees or dependants for injury, disease or death, or for rehabilitation of employees with work-related disabilities. The Employees' Compensation Fund is managed and administered by the Nigeria Social Insurance Trust Management Board (hereafter referred to as "The Board"). The purport of this is to take the payment of compensation directly away from the employer to the Board to ensure speedy payment, without unnecessary bottlenecks.

The creation of the Board led to the transformation of the defunct National Provident Fund (NPF) into the Nigerian Social Insurance Trust Fund (NSITF). The NSITF is the body which deals with providing social security against retirement, pension, invalidity, injury or death of an employee. This restructuring is important as it gives employees in the private sectors the same benefits accorded employees in the public sector.

Therefore, it is important for all employees to know the role, functions and powers of the NSITF. I have thus introduced a topic in Chapter 7 to enlighten you on the functions of the body, and what to do if you have any issues requiring their attention. I have also included their office locations throughout Nigeria in Schedule III.

Another innovation introduced by the new ECA is to make the law applicable to all categories of employees. The old law was limited to workers, which presumably dealt more or less with workers involved in manual labor. But the new law is applicable to all categories of employees, hence the change in the name from Workmen's Compensation Act to Employees' Compensation Act.

I must say these are commendable innovations, in view of what we have witnessed in the past. Before now, the payment of compensation was in the hand of the employers who were always reluctant to pay the employees their due entitlements, and employed all manners of tricks, coercion or intimidation to force the employee to abandon his claim. With proper administration, the Fund will provide an avenue for prompt and timely payment of compensation to affected employees without waiting on the employer.

In Chapter 11 of the 2009 edition also, we dealt with the issue of terminal benefits for employees, i.e., pension, gratuity, etc. In 2004, however, a new pension scheme was introduced by the Olusegun Obasanjo regime via the Pension Reform Act of 2004. The new system is what is referred to as the Contributory Pensions Scheme, in which both the employer and employee contribute a certain percentage monthly towards the employee's pension. The sums contributed by both parties are deposited through Pensions Fund Custodians and managed through Pension Fund Administrators (PFA). With this scheme, the employee is protected and guaranteed a timely and adequate access to his pension upon retirement or termination of employment, depending on the requirements. Now, the employee doesn't have to wait upon his employer for the payment of his/her terminal benefits, which are seldom paid especially in the public service. Furthermore, the fund so contributed is invested in specified schemes, earning the employee interest and profits. These important innovations made the revision of this book inevitable.

However, I had barely finished working on the revision when the Pension Reform Act 2004 was replaced on the 1st July 2014 by former President Goodluck Jonathan. The new law is called the Pension Reform Act 2014, which sought to address the loopholes and lapses in the former law. This necessitated my having to tarry awhile to study the new law and its applications. Consequently, I had to further revise this book so as to highlight the provisions of the Pension Reform Act 2014, and what the law now says about the payment of pensions to employees, as well as the roles of the PFAs and PFCs. The reasons are, firstly, because the provisions of this new law surely affect your interests as an employee or employer, and, secondly because I had made a

written undertaking to regularly update all my books in line with any change or amendments in the applicable laws.

In addition to the above, I have actually decided to make this revision worthwhile, in line with the overriding interest of employees. To this end, I have introduced new and very important topics that would further enlighten employees as to their basic rights. In the first place, I realized that many employees don't even know what the law says about recruitment. And that there are legal provisions guiding recruitment of workers, whether inside Nigeria or outside. I have thus included a new Chapter 1 to let you know what the law says about recruitment and recruiters.

There are many new and interesting topics in Chapter 5, where I have discussed the general rights of employees. I know it will surprise most readers to learn that there are laws guiding your salary: i.e., the manner of payment; how your salary cannot be spent; salary advance and how to repay it; salary overpayment and when it cannot be repaid, etc. These are very interesting topics which affect every employee in Nigeria. In this Chapter 5 also, I have discussed new issues concerning what the law says about employment of women, young persons and about apprentices. This is in addition to some other revisions and additions in many places which seek to make the book up-to-date

I must mention that, notwithstanding all the above, the revisions in this 2017 edition is limited. This is because the basic laws and principles governing employer/employee relationship remain substantially unchanged.

From the moment the first of our series came out, many callers and writers continually requested for our book on the rights of employees. As a matter of fact, I must say that employees constitute the third highest percentage of calls I receive regularly for consultations, after police cases and landlord/tenant matters respectively. I do quite understand the pressure because we have so many people in employment, both in the private and in public sector.

I have come to discover that, aside the company handbook and civil/public service rules, most workers do not know the law governing their employer/employee relationships. All they know is that their masters give them verbal guidelines in terms of company policies and that ends there.

The employees are not aware of their rights and obligations under the law. Most do not even have, nor ever sighted, their company handbooks.

I must confess here too that writing a book on employee rights was quite tasking, more than the other series I have written on other aspects of law. The major problem here is the non-availability of enough materials on employment laws. The few laws on labor and employment are of little help. I've had to place heavy reliance on decided cases by the courts, especially the higher courts. In this wise, I have had to search strenuously for many authorities on major issues in employment law so I will be sure I'm giving you the correct position of the law. Of course, as you well know, pronouncements of courts have the force of law, since the courts have the constitutional responsibility to interpret the law.

In the course of writing the book, I discovered that the contents would be equally useful for employers. Like I said in the introduction, employment laws in Nigeria are relatively management-oriented. Many employers will find the book enlightening as to their rights vis-à-vis their employees too. I hasten to add, however, that the primary target is the employees who are at the receiving end and constitute the majority. I have deliberately highlighted and dwelt more on the rights of employees than the employers. After all, virtually every employer can afford to pay for and retain the services of a lawyer for consultations. Only few employees enjoy this privilege.

Like in every other series, employment law is a vast area of law, much more than what I've attempted to do here. But my attempt has been to enlighten you on the common issues related to your employment, your day-to-day activities and your general rights as an employee. The contents are to serve as a guide to you as you relate daily with your employer. And just like I've always said, what I have provided you in this book are the mere ingredients which you should take to your lawyer to prepare the legal meal where you feel your rights as an employee have been infringed.

My aim with this book, therefore, is to enlighten employees on their rights generally. And my mission would have been accomplished if you become more educated about your rights after reading this book.

I welcome you to the world of knowledge.