

STUDENTS LOANS (ACCESS TO HIGHER EDUCATION) (REPEAL AND RE-ENACTMENT) ACT, 2024

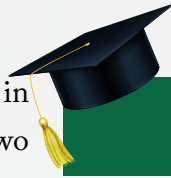


Introduction

The Students Loans (Access to Higher Education) (Repeal and Re-Enactment) Act, 2024 was an Executive Bill to repeal the Student Loans (Access to Higher Education) Act 2023. The 2023 Act was signed into law on Monday, 12th June 2023 while the Executive Bill was passed by the Senate and the House of Representatives of the National Assembly on Wednesday, 20th March 2024. The Bill was signed into law by the President on 3rd April 2024.

The new Act makes the following key provisions:

- ◆ Makes the Nigerian Education Loan Fund a body corporate that can sue and be sued.
- ◆ Sets up a new administrative structure comprising of a Board of Directors to be headed by a non-executive Chairman and a management team led by a Managing Director.
- ◆ Tasks the Fund with investing monies and maintaining a diversified pool of funds to support student loans.
- ◆ Extends loan coverage to student maintenance allowance or upkeep in addition to tuition fees.
- ◆ Removes provision stating that loans are interest free.
- ◆ Removes the N500,000 individual/family annual income threshold to access a loan.
- ◆ Mandates national spread and inclusion in disbursement of loans.
- ◆ Allows for exemptions in loan repayment in cases of death, hardship or for reasons of equity.



Key Provisions

- ◆ Dispenses with the application procedure in the current law including requirement of two loan guarantors. Directs the Board to outline the application procedure and criteria via regulations.
- ◆ Removes provision that disqualifies any applicant whose parent had previously defaulted on a loan.
- ◆ Restricts beneficiaries of previous government loans or scholarship schemes from accessing student loans.
- ◆ Imposes a statutory duty on employers to find out the student loan status of their employees under the threat of a fine and/or jail term.



Scope and Structure:

The Act is structured into six parts - Parts I to VI and divided into 37 sections. The sections in Part I provide for the establishment, objectives, powers, functions etc. of the Nigerian Education Loan Fund. Part II deals with the board of directors, management and administration. The sections elaborate on the responsibilities, composition, appointment, removal and tenure of the board of directors, the Managing Director, Executive Directors and Staff of the Fund. Part III states the financial provisions- funding, finance, accounts, audit, annual reports etc. Part IV deals with the administration of the Students Higher Education Loan Scheme, eligibility of applicants, disqualification and how the funds are to be disbursed. Part V deals with protection against adverse claims, indemnity etc. and Part VI makes miscellaneous provisions.

1. **The Nigerian Education Loan Fund:** The 2024 Act expands the objectives of the Nigerian Education Loan Fund referred to as “the Fund” which is set up to provide financial assistance to individuals pursuing higher education. The main objective of the Fund is to “provide loans to qualified Nigerians to pay for tuition, fees, charges and upkeep during their course of study in approved tertiary education institutions and vocational and skills acquisition institutions in Nigeria”.
2. **Loan Eligibility Criteria:** Eligibility for student loans under this Act is contingent upon meeting certain criteria, such as being a Nigerian Citizen, admission into higher education institutions established by the Federal Government or state Government (universities, polytechnics and colleges of education), admissions into a vocational or skills acquisition school licensed by the Federal Government. Identification including biometrics will be provided as part of the application for the purpose of recovery and disbursement of loans. Additionally, the Board shall have the power to make specific regulations regarding the method and process of loan applications and the criteria for granting loans in each financial year.
3. **National Spread and Inclusion:** The Act seeks to provide for national spread and inclusion by stating that a “minimum national spread of loans approved and disbursed in each financial year; and approval and disbursement of loans under this Act shall be subject to the availability of funds and principles of justice, fairness and inclusion”.

4. **Terms and Conditions:** Timeframe for applications and decisions regarding approval, rejection or disbursement is within thirty days of application. The loan covers tuition and other fees payable to the school as well as maintenance allowance payable to the student.

5. **Duty of Employers:** All employers are bound to enquire from the Fund as to the student loan status of prospective employees. An employer who is informed that their employee is a beneficiary of student loans from the Fund who has not completed repayment, shall provide such information as the Fund may require to initiate collection of the loan and any charges from the beneficiary. Any individual employer or a director or officer of a corporate employer who is involved in contravention of these provisions is guilty of an offence and shall be liable on conviction to a fine of not less than N2,000,000 or imprisonment for a term of not less than one year or both.

6. **Establishment of the General Reserve Fund:** The General Reserve Fund shall receive funds from 1% of all taxes, levies and duties collected by the Federal Inland Revenue Service, and accruing to the benefit of the Federal Government of Nigeria; all sums which may from time to time be appropriated to the Fund by an Act of the National Assembly; repayment of capital and interest on any loan granted by the Fund; investment income of the Fund; monies from education bonds or other debt instruments; monies from the Federal Government of Nigeria, as may be directed and approved by the President; all sums collected as charges and fees by the Fund in the course

of discharging its functions under this Act; all sums accruing to the Fund by way of donations, gifts, grants, and endowments.

7. **Repayment Plan:** The Act includes provisions for repayment aimed at easing the financial burden on borrowers, such as providing for a two-year period upon graduation from the course for which the loan was obtained, having secured employment in any capacity to commence repayment. Furthermore, the Fund shall not initiate enforcement action against any beneficiary of loans from the Fund until two years after the completion of the National Youth Service Corps (NYSC) programme or exemption therefrom. Repayment of the loan shall be by monthly deductions not exceeding 10% of the beneficiary's gross income until the loan and all charges are repaid to the Fund. It gives allowance for an extension where the beneficiary is unemployed.



Differences between the current 2023 Act and the 2024 Act

1. **The Education Loan Fund:** The Fund is now set up as a body corporate capable of suing and being sued. The objectives of the Fund are more clearly outlined and streamlined in the 2024 Act. These include elaborate provisions allowing for financial investments as part of building, operating and maintaining a diversified pool of funds to support student loans. Some functions or powers in the 2023 Act that are not contained in the 2024 Act include powers of the fund to engage in banking business, monitor academic records

of loan beneficiaries and provide financial advice to academic institutions, parents and educational investors.

2. **Loan Cover:** The purpose for the loan in the 2023 Act was only for tuition fees while the 2024 Act covers tuition and other fees payable to the school as well as maintenance allowance payable to the student.
3. **Income Threshold in Eligibility Criteria:** The 2023 Act sets a threshold of an annual income of less than N500,000 for the applicant or their family thereby basing eligibility for the loan on financial need. This 2024 Act seems to be open to anyone and not indigent students only. It also dispenses with the two loan guarantors required in the 2023 Act.
4. **Sources of the Fund:** The 2024 Act establishes what it calls the General Reserve Fund while the 2023 Act merely outlines sources of the Education Loan Fund (same objective). The 2024 Act includes National Assembly appropriation as a funding source, which the 2023 Act does not. The 2024 Act also lists investment incomes, charges and fees by the Fund and repayment of interest on loans as other funding sources. It further deletes the requirement in the current Act for the loan to receive 1% of taxes, levies and dues accruing to both the Nigeria Immigration and Customs Services.
5. **Interest on Loans:** The 2024 Act lists payment of interest on loans granted as a funding source for the Education Loan Fund and mentions repayment of loans and “all charges” in Section 28 (3) dealing with repayment. This implies that the loans will not be interest free. Meanwhile, section 13 (a) of the current 2023 Act says that the loans are interest free.
6. **Schools Covered:** In addition to students who have secured admission into tertiary institutions, loans are available to students in vocational schools established by the Federal and State Governments. The 2024 Act however restricts the later to vocational schools licensed by the Federal Government.
7. **National Spread and Inclusion:** The 2024 Act mandates the Board to ensure national spread of loans approved and disbursed in each financial year. The 2023 Act on the other hand has a non-discrimination provision that provides for equal access to the fund irrespective of gender, religion, tribe, position or disability status.
8. **Repayment:** The 2024 Act allows the board to make exemptions for loan repayments, that is, in cases of death of the beneficiary, in cases of hardship, for reasons of equity, where it is impossible to recover the loan or where the cost of recovery exceeds the amount being sought. This is commendable but could give way to abuse if not properly managed or if there is no established criteria for hardship or equity.
9. **Disqualifications:** The 2023 Act disqualifies any applicant whose parent had previously defaulted on any loan. The 2024 Act removes this provision but then disqualifies beneficiaries of any loan or other scholarship scheme from the Federal Government or any of its agencies.
10. **The Administrative Model:** The 2023 Act domiciled the fund in the Central Bank of Nigeria to be managed and administered through a Special Committee (headed by

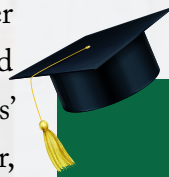
the CBN Governor) and the money deposit banks while the 2024 Act creates a Board of Directors headed by a non-executive chairman and a management team headed by a Managing Director to be assisted by three Executive Directors. The directors have 5-year tenures and are to be responsible for the execution of policy and the day-to-day administration of the Fund.

11. Self-Employed Persons: The 2023 Act explicitly recognizes the self-employed category and makes provisions for self-employed persons to submit their business details: address, registration documents, names of partners, directors and bankers within 60 days of assuming that status.

12. Method of Application: A process is clearly stated in the 2023 Act for applicants to submit through their bank a cover letter signed by the vice-chancellor, rector or head of the institution and the dean of students' affairs accompanied by the admission letter, two guarantors and their business details, where self-employed, recommending the applicant for the student loan and accepting liability. The 2023 Act also gives specifications for who can be a guarantor. The 2024 Act seems to allow for flexibility by stating that applications shall be made in the form and manner prescribed by guidelines to be issued by the Board from time to time. Additionally, the Board shall have the power to make specific regulations regarding the method and process of loan applications and the criteria for granting loans in each financial year.

13. Duty of Employers: As part of the repayment plan in the 2023 Act, an employer is mandated to deduct 10% of the

beneficiary's salary at source and credit to the Fund, and for those self-employed, 10% of their total profit monthly. Whereas, the 2024 Act provides that such deduction should not exceed 10% i.e., it can be less than. The Act states that any employer that is informed that their employee is a beneficiary of student loans from the Fund who has not completed repayment, shall provide such information as the Fund may require to initiate collection of the loan and any charges from the beneficiary. It further imposes on prospective employers, the duty to find out from the Fund, the student loan status of persons they employ and imposes a fine of not less than N2,000,000 and/or imprisonment term of not less than one year for employers found guilty of contravening this requirement.



Potential Impacts

- ◆ **Increased Access to Higher Education:** By providing access to affordable student loans, this Act has the potential to increase the number of individuals pursuing higher education, particularly those from low-income backgrounds who may otherwise be unable to afford it.
- ◆ **Reduced Financial Barriers:** The availability of student loans can alleviate the financial barriers that often deter individuals from enrolling in higher education or learning a skill, thereby promoting greater socio-economic diversity within higher education institutions.
- ◆ **Improved Economic Mobility:** Higher education is associated with higher earning potential and greater job opportunities.

By facilitating access to higher education through student loans, this Act can contribute to enhanced economic mobility and long-term prosperity for individuals and society as a whole.

- ◆ **Mitigation of Student Debt:** While addressing the immediate need for access to education and a vocational skill, a combination for responsible borrowing and a flexible repayment plan will ensure that students do not face unacceptable burden of debt.
- ◆ **Imposition of a Statutory Duty and Stiff Penalty on Employers:** The law imposes on an employer, the statutory duty to investigate an employee's loan status and make monthly deductions from the salaries of student loan beneficiaries, even though the employer is not party to the loan agreement. While this seems to have a public interest objective, there is no clear justification for individual and corporate employers to face a possible prison term for failing to enquire if their employee is owing a student loan especially at a time when non-custodial measures are being proposed worldwide as a better approach in sanctioning. It is also unclear how this penalty would be enforced taking into consideration, informal employment arrangements that are common in Nigeria or what would happen if the defaulting employer were a government agency.



Conclusion

The “Student Loans (Access Higher Education) Repeal and Re-enactment Act 2024” establishes a regulatory framework for overseeing the implementation of the student loan program.

As identified above, the 2024 Act represents a significant step towards promoting access to higher education and fostering economic mobility as well as empowering individuals to pursue their educational aspirations without undue financial burden. Its implementation has the potential to yield far-reaching benefits for individuals, communities, and the nation, contributing to a more inclusive and prosperous society.

However, when compared with the 2023 Act, the provisions of the 2024 Act seem to be less stringent in terms of eligibility criteria, loan terms, and repayment options. This may be due to the proposed administrative model in the new Act that sets up the fund as a corporate body with a Board of Directors having powers to make additional guidelines and regulations to cover these issues. The proposed management team led by an Executive Director to manage the day-to-day affairs of the Fund appears to be more suited to the management of an Education Loan Fund charged with receiving, managing and investing a diversified pool of funds to provide loans to qualified applicants and ensure access to higher education, vocational training, and skills acquisition.



Recommendations

- ◆ Due to the increasing pressure on public funds in Nigeria, eligibility for the loan should be selective and dependent on either financial need or academic merit or both and not available to all students who wish to borrow. This will also bridge the gap in education particularly for those from low-income backgrounds who may otherwise be unable to afford it. Other factors that will need to be considered when designing the program will be the size of the loan to each student.
- ◆ Although the Act provides for national spread and inclusion, it does not make special provisions for women or persons with disabilities who have faced exclusion for many years in many parts of the country.
- ◆ There is an increase in waiting period for graduates to secure employment in Nigeria due to the current economic situation in the country and the lack of jobs. The grace period for repayment should be increased to four years to enable fresh graduates secure jobs or decide to start a business with the skill acquired.
- ◆ More measures to keep loan defaulters to a minimum should be put in place.
- ◆ Expertise in loan management needs to be tapped from the existing well-developed banking system in Nigeria. While the 2023 Act explicitly relies on the money deposit banks as part of the administration of the fund, the 2024 Act excludes them. This should be considered in the composition of the Board.

- ◆ The penalty for an employer who fails to find out an employee's student loan status should be revisited.

N.B: This analysis and the accompanying recommendations were developed before the signing of the Act on Wednesday, 3rd April 2024.



References:

1. Students Loans (Access to Higher Education) (Repeal and Re-Enactment) Bill, 2024
2. Students Loan Access to Higher Education Act 2023
3. A world bank discussion paper on establishing student loans in developing countries: Some guidelines by Maureen Woodhall - <https://documents1.worldbank.org/curated/en/216001468765919353/pdf/multi-page.pdf>



About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making process.

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