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A REVIEW OF THE STUDENTS' LOANS (ACCESS TO HIGHER EDUCATION) (REPEAL AND RE-ENACTMENT) ACT, 2024

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Summary

This legal issue brief discusses the recently enacted Students' Loans (Access to Higher Education) (Repeal and Re-enactment) Act, 2024 and appraises its innovative provisions setting it apart from the Act of 2023 which it repeals. The review is undertaken in the context of cross-country experience with recommendations made on strengthening the legislative framework.

Keywords: Access, Higher Education, Loan, Students

INTRODUCTION

The Students' Loans (Access to Higher Education) (Repeal and Re-enactment) Act, 2024 (hereafter SLA, 2024) is the result of an Executive Bill presented to the National Assembly by the government of President Bola Ahmed Tinubu. It is an actualization of the President's commitment to providing access to higher education to all Nigerians desirous of pursuing higher education. Following the expeditious passage of the Bill by the Senate and the House

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of Representatives of the National Assembly on Wednesday, March 20, 2024, the Bill was promptly signed into an Act by the President on April 3, 2024. The new contains a number of distinctive and novel provisions aimed at strengthening the effort to broaden the scope of access to students' loans for higher education.

BACKGROUND

The operation of student loan scheme in Nigeria dates back to 1972 when the military government headed by General Yakubu Gowon promulgated the Nigerian Students Loans Board Decree with specific focus on indigent students. Subsequent amendments led to the promulgation of Decrees of 1988 and 1993, and the establishment of the National Education Bank. The SLA, 2023 repealed the Nigeria Education Bank. The SLA, 2023 has now been replaced with the SLA, 2024.

OVERVIEW OF STRUCTURE OF SLA, 2024

The Act is divided into 6 parts of 37 sections. The provisions in Part I covers establishment, objectives, powers, functions, etc. Part II deals with the establishment of the Board, Board of Directors, Management and Administration. Part III relates to funding, such as finance, accounts, audit, annual reports, etc. Part IV deals with administration of student's loan scheme, eligibility, application, disbursement, disqualification, repayment, etc. Part V relates to protection against adverse claims, indemnity, etc.; while Part VI covers miscellaneous clauses. The Act contains some key aspects namely:

- Objectives: The Act expands the objectives of the Loan Fund to include all qualified persons pursuing higher education programme in any approved tertiary institution in Nigeria for purposes of payment of tuition, fees, charges and upkeep.
- Eligibility: This include being a Nigerian citizen, with valid biometrics identity, admission letter and meeting set regulations of the Board.
- Application timelines: The loan fund to be disbursed within thirty days of proper application to cover all expenses and maintenance cost of the student applicant.
- Disbursement: Available fund to be disbursed on basis of national spread and inclusivity principles of equity, justice, fairness and inclusion of all.
- Employers Responsibility: The Act stipulates the Board shall inform employers of status of employed beneficiaries for follow up on repayments. Also, it imposes statutory duty to hold employers responsible to inform the Board of the repayment status of



borrowers. Any defaulter shall be liable on conviction for a fine of not less than N2,000,000 or imprisonment for a term of not less than one year or both.

- **General Reserve Fund:** Fund shall be received into the reserve from various sources which include, 1% of all Federal taxes, levies and duties; appropriation from the National Assembly; repayments on loans and capital granted; funds from education bonds, approvals from Federal Government; charges and fees on loans; donations, gifts, endowments and grants to the Fund.
- **Repayment:** Stipulates a two-year grace period for repayment of loan after graduation; enforcement of repayment to commence two years after completion of National Youth Service. Repayment shall be 10% of gross earnings. Extension or exemption shall be granted for non-employment, death or hardship as the case maybe.
- **Administrative structure:** The Act sets up a Nigerian Education Loan Fund, headed by a non-executive Chairman, with a Board of Directors and a Managing Director. The Board has powers to sue and be sued, to invest, remove provisions on interest repayment, the family threshold for eligibility, to exempt, extend loan period, grant grace periods, etc.

CROSS-COUNTRY OVERVIEW

- **United Kingdom (UK)**

The Student Loan Company (SLC), a United Kingdom executive non departmental public body company, founded in 1989 (35years ago) is saddled with the responsibility of providing students loan and collecting loan repayments alongside the HMRC and Customs. It is jointly owned by the UK Government Department for Education (85%), Scottish Government (5%), Welsh (5%), Northern Ireland (5%). It is funded entirely by the UK Government and the devolved administration. The SLC provides loans and grants to students studying in the UK. Between 1990-1998 these were mortgage-style loans for students' cost of living, repaid directly to SLC. With the introduction of tuition fees in the UK in 1998, it began providing loans on an income-contingent repayment (ICR) scheme. By 2006, the loans covered cost of tuition fees in addition to living costs.

A new ICR replaced the earlier one in 2012 to include a longer repayment period following the increase of tuition fees. Students commence repayment once they earn over a certain amount. The size of monthly repayment depends on how much a student earn and not how much owed. Second degree loans are also available for approved courses. Period of disbursement of loan is



within three weeks from valid application date. Loans are written off at 65 years or 30 years after due date of repayment.

- Australia

The Higher Education Loan program (HELP) is the student's loans scheme in Australia. HELP consists of other schemes including HECS-HELP (Higher Education Contribution Scheme-Higher Education Loan Program), FEE-HELP Loan Scheme and OS-HELP (Overseas Higher Education Loan Program) for students studying overseas. The schemes allow eligible students to borrow money from the Australian government to pay their tuition fees, with the loan repaid through the tax system once the students attain a certain income threshold. While not identical in structure and purpose, the Australian higher education loan schemes serve a similar function to the Nigeria Student Loan Act by providing financial assistance to students to pursue their education.

- Ghana

The Students Loans Scheme Law 1992 (PNDC 276) is the operative law for students of Ghana origin studying in public tertiary institutions in Ghana. Applicable to full time and part-time students. The borrower and the government share the interest repayment on the loan (section 5). Repayment shall not exceed 10 years after gainful employment (Section 2). Purpose of loan is to defray personal expenses, including cost of boarding, lodging, books, equipment, and for such other costs as maybe necessary (Section 7). Period of disbursement is two weeks from valid application date.

- South Africa

In South Africa, the National Student Financial Aid Scheme (NSFAS) a juristic entity of the South African Government is in charge of students' loan. It reports to the Minister of Higher Education, Science and Innovation. A student's loan can be concluded in 24 hours from valid time of application. Repayment is in two tranches. One while still in school and the other after school. Students loan in South Africa cover tuition and registration fees, as well as associated costs, such as accommodation, textbooks or a laptop for studies. Loan is paid directly into student's personal account and the amount depends on the need of the student.



RECOMMENDATIONS

The SLA 2024 is a well-intended Act to facilitate easy access to higher education in Nigeria. The objective serves the same purpose as student loan scheme in some other countries with little variations. What is lacking is that tertiary institutions in Nigeria are not endowed with the necessary instructional and institutional facilities to make learning experience purposeful and meaningful within the educational setting and ensuring that default in student's expectations is actionable.

- **Inclusivity:** Need to make special provision for students with disabilities. The Act literally covers all eligible students. However, it does not resolve the question whether the future is truly accessible to students with disabilities, coupled with the episodic operationalization of existing laws on students with disabilities in higher institutions in Nigeria.
- **Loan Applications:** This must be mandatorily linked to students National Identification Number (NIN). Every eligible student must possess the NIN. Submission of NIN be made a precondition for employability. As long as a student remains and work in Nigeria,
- **Repayments:** The use of NIN will minimize dependence on employees and employers' giving information on loan repayment, monitoring repayment abandonment and defaulters and ensure proper accountability.
- **Effective Tax System:** Loan repayment to be deductible upon meeting certain thresholds and managed as tax payments following records on the employees NIN. This will however necessitate a country wide development of an effective/efficient tax system and building of strong and independent institutions for loan management in Nigeria.
- **Operationalizing University Autonomy:** A provision for Governing bodies of higher institutions (without necessarily a part of the Fund management), to be held accountable for failed substantive legitimate expectations of students, for instance, certainty and predictability of programme and duration. This will eliminate or minimize the trust deficit in the education sector.



CONCLUSION

Overall, while students' loan can help to address financial barriers to higher education, achieving the objectives of a student loan Act as in Nigeria requires complementary efforts like improving institutional and instructional facilities. Investing in education infrastructure, enhancing the quality of teaching and learning, and ensuring equitable access to educational resources are essential for maximizing the impact of student's loan programs and promoting attainment and social economic development. The Act is a catalyst for the operationalization of existing legislation in Nigeria for the revamping of the educational sector.



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