



NSSF CONTRIBUTION COMPLIANCE · KENYA

The stay is dismissed. The duty to **contribute** stands.

On 29 May 2026 the Court of Appeal declined to halt the ELRC judgment against the NSSF Act, 2013 — yet NSSF confirms the Act remains in force and the Year Four contribution rates continue to apply. Here is what employers must do now.

AN UPDATE FOR EMPLOYERS, PAYROLL AND HR TEAMS

<p>29 May 2026</p> <p>COURT OF APPEAL RULING ON THE STAY</p>	<p>6% + 6%</p> <p>EMPLOYEE & EMPLOYER RATE — UNCHANGED</p>	<p>KES 12,960</p> <p>MAX MONTHLY CONTRIBUTION, YEAR 4</p>	<p>Year 4</p> <p>ACTIVE CONTRIBUTION CYCLE IN FORCE</p>
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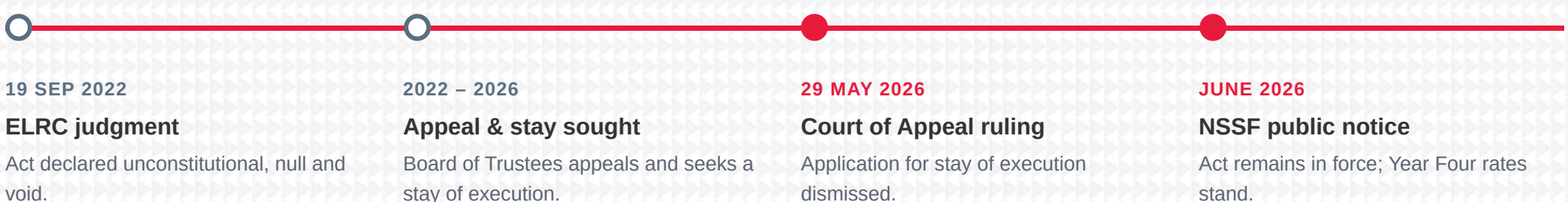
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01 — BACKGROUND

Years of litigation over the 2013 Act

The implementation of the National Social Security Fund Act, 2013 has been the subject of litigation for several years.

On 19 September 2022, the Employment and Labour Relations Court (ELRC) declared the NSSF Act, 2013 unconstitutional, null and void. The decision rested on several grounds — the legislative process followed in enacting the Act, the mandatory nature of participation, the treatment of private pension arrangements, and certain provisions affecting access to public services. The NSSF Board of Trustees appealed the decision and applied to the Court of Appeal for a stay of execution of the ELRC judgment pending determination of the appeal.



The stay was refused on a two-part test

In its ruling delivered on 29 May 2026, the Court of Appeal dismissed NSSF's application for a stay of execution, applying the established test for granting a stay pending appeal.

The Court asked two questions: whether the appeal is arguable, and whether the appeal would be rendered nugatory if a stay were not granted. The appeal cleared the first limb but not the second.

LIMB 1

Is the appeal arguable?

The Court found arguable issues — the nature of NSSF as a contribution-based pension fund, the classification of the NSSF Act, 2013, and whether Senate involvement was required during the legislative process.

✓ YES — SATISFIED

LIMB 2

Would it be rendered nugatory?

NSSF did not show that the appeal would be rendered nugatory without a stay. It gave insufficient evidence of the alleged destabilisation of the Fund, and the previous Act, Cap. 258, would supply a legal framework — so no legislative vacuum would arise.

✗ NO — NOT SHOWN

RESULT

Application for stay dismissed

Both limbs must be satisfied. With the second unmet, the stay was refused — though the substantive appeal remains pending.

A stay pending appeal requires **both** limbs. An arguable appeal alone does not earn a stay where the applicant cannot show the appeal would otherwise be defeated.

NSSF: the Act remains in force, rates unchanged

Following the ruling, NSSF issued a public notice clarifying its position on the status of contributions.

The Act remains in force

NSSF states that the NSSF Act, 2013 remains in force and that the issues pending before the Court do not affect the contribution rates applicable under the Third Schedule to the Act.

Year Four rates apply

NSSF has confirmed that the applicable contribution rate remains the Year Four contribution cycle — there is no change to the rates currently being administered.

Disregard the KES 200 reversion

Employers, employees and stakeholders are advised to disregard views suggesting a reversion to the previous KES 200 contribution regime.

Comply to protect benefits

NSSF reminds employers and workers to comply — both to avoid denying employees accrued benefits and to avoid exposure to penalties.

The pending appeal does not change today's obligation: the Act stands, and Year Four contributions remain due.

THE PRACTICAL TAKEAWAY OF THE PUBLIC NOTICE

04 — CURRENT POSITION FOR EMPLOYERS

Keep deducting and remitting as you are

Based on NSSF's public notice, and absent a further court order, statutory amendment or formal directive requiring a change, the current framework continues to apply.

Employers should continue deducting and remitting NSSF contributions under the current framework being administered by NSSF. Do not revert to the previous KES 200 contribution regime unless expressly directed by the courts, NSSF or the relevant regulatory authorities. Ensure that payroll systems, employee deductions and employer contributions remain aligned to the current NSSF contribution schedule.

05 — THE YEAR FOUR FRAMEWORK IN NUMBERS

What "Year Four" means on the payslip

The NSSF Act, 2013 replaced the old flat KES 200 regime with a phased, two-tier percentage system rolled out over several years. The 6% rate each has held throughout; what changes year on year is the band of pensionable earnings it is charged on. Year Four — the cycle now in force — applies a Lower Earnings Limit of KES 9,000 and an Upper Earnings Limit of KES 108,000.

Maximum monthly contribution per employee

Employee + employer combined, at the cap — how far the framework has moved from the flat regime.

Pre-2013 flat regime

KES 200 each

KES 400

Year 1

KES 1,080 each

KES 2,160

Year 2

KES 2,160 each

KES 4,320

Year 3

KES 4,320 each

KES 8,640

Year 4 — current

KES 6,480 each

KES 12,960

YEAR	LOWER LIMIT	UPPER LIMIT	MAX EMPLOYEE	MAX EMPLOYER	TOTAL / MONTH
Year 1	6,000	18,000	1,080	1,080	2,160
Year 2	7,000	36,000	2,160	2,160	4,320
Year 3	8,000	72,000	4,320	4,320	8,640
Year 4 CURRENT	9,000	108,000	6,480	6,480	12,960

All figures in KES, per the NSSF Act, 2013 Third Schedule phased contribution rates, split equally between employer and employee. Year Four, the cycle now in force, raises the Lower Earnings Limit to KES 9,000 and the Upper Earnings Limit to KES 108,000, giving a maximum total contribution of KES 12,960 per employee per month (KES 6,480 each).

06 — RECOMMENDED ACTION

Five steps for employers now

A short checklist to keep payroll compliant while the appeal runs its course.

1 Apply the current Year Four rates. Continue using the Year Four contribution cycle for all deductions.

2 Remit both portions. Continue remitting employee and employer contributions under the current NSSF framework.

3 Do not revert to KES 200. Hold the current regime unless a formal directive is issued to the contrary.

4 Keep your records complete. Maintain payroll records, contribution schedules and remittance evidence.

5 Monitor developments. Watch for further court directions, legislative changes or official NSSF communication.

A dismissed stay is not a changed obligation.

1 The Court of Appeal **dismissed NSSF's application for a stay**, but the **substantive appeal remains pending**.

3 Employers should **continue complying** with the current NSSF framework until a further formal directive says otherwise.

2 NSSF publicly maintains that the **Act, 2013 remains operational** for contributions and that current rates apply.

4 BDO will **continue to monitor** the matter and issue updates on any material legal, regulatory or administrative development.



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Implications for employer contribution compliance

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Disclaimer. This alert is provided for general information only and does not constitute legal, tax or financial advice. It summarises the Court of Appeal ruling of 29 May 2026 and the subsequent NSSF public notice as at the date of publication; the substantive appeal remains pending and positions may change. Contribution figures are indicative of the published NSSF Year Four schedule. Employers should seek specific professional advice before acting on any matter described here. © 2026 BDO. All rights reserved.