In previous articles on the Pension reform in Ghana, the writer gave a background to the pension reforms leading to the enactment of the National Pensions Act, 2008. It was observed that over the years, concerns have been raised and agitations made by public servants over inadequacies of the current level of pensions to sustain a respectable life for retired public servants. Of particular concern to most workers' groups has been the low pensions received by workers under the Social Security and National Insurance Trust (SSNIT) Pension Scheme compared to those still under Chapter 30 of the 1950 British Colonial Ordinances (Pension Ordinance No. 42), popularly known as CAP 30.

In addition, pension schemes that have been operated in the country so far, have, beside their limitations, also failed to consider the plight of workers in the informal sector, who constitute about 80% of the working population in Ghana.

The concern rose to a peak in agitation and protests by workers' organisations for the restoration of public service pensions to the level of the provisions still available to some public officers under CAP 30, in place of the SSNIT system that had been introduced in 1972 as the mandatory and universal pension scheme for all employees.

In recognition of the need for reforms to ensure a universal pension scheme for all employees in the country, and to further address concerns of Ghanaian workers, the Government in July 2004 initiated a major reform of the Pension System in Ghana. The process started with the establishment of a Presidential Commission on Pensions under the chairmanship of Mr. T. A. Bediako which reported its findings to the Government in March, 2006. Following consideration of that report, the Government issued a White Paper in July 2006, which accepted almost all of the Commission's recommendations. In order to implement the new pension system, an 8-member Pension Reform Implementation Committee ("the Committee") and a Consultant was appointed in October 2006.

The Committee commenced work in November, 2006 and as part of its Mandate submitted proposals for National Pension Reform Bill to Government in 2007. Cabinet approved the Bill and submitted it to Parliament for passage into law. The Bill was passed by Parliament and received Presidential assent in December 2008. A new Pensions Law, the National Pensions Act, 2008 (Act 766) was promulgated on 12th December, 2008

In this article, the writer gives an overview of the new pensions law.

OVERVIEW OF THE NATIONAL PENSIONS ACT, 2008

The National Pensions Act is divided into four parts; Part One is on the establishment of a contributory three-tier pension scheme and National Pensions Regulatory Authority, Part Two deals with the basic national social security scheme, Part Three provides for occupational pension schemes, provident fund and personal pension schemes and management of the schemes and Part four is on general provisions.

Part One - Establishment of Contributory Three–tier Pension Scheme and National Pensions Regulatory Authority

This Part establishes a contributory three-tier pension scheme as follows:

- first tier basic national social security scheme, which incorporates an improved system of SSNIT benefits and shall be mandatory for all employees in both the private and public sectors;

- second tier occupational (or work-based) pension scheme, mandatory for all employees but privately managed, and designed primarily to give contributors higher lump sum benefits than presently available under the SSNIT or Cap 30 pension schemes; and

- third tier voluntary provident fund and personal pension schemes, supported by tax benefit incentives for workers in the formal sector who want to make voluntary contributions to enhance their pension benefits and also for workers in the informal sector.

The mandatory basic national social security scheme is to be managed by SSNIT which is undergoing restructuring under the supervision of the Implementation Committee.

The mandatory fully funded and privately managed occupational pension scheme and the voluntarily provident fund and personal pension schemes are to be managed by approved trustees (licensed by a National Pensions Regulatory Authority) and pension fund managers and custodians (licensed by the Security and Exchange Commission and registered with the Authority).

The main objective of the three-tier pension scheme is to provide for pension benefits that will ensure retirement income security for the worker.

The employer will make a monthly contribution of thirteen per cent (13%) of workers salary whilst the worker will make a contribution of five and a half percent (5.5%) making it a total of eighteen and half percent(18.5%) of workers salary as mandatory contribution towards pension.

Out of the total contribution of eighteen and half percent, the employer will remit thirteen and half percent to the first tier mandatory basic national social security scheme and five percent to the mandatory second tier occupational pension scheme.

The National Pensions Regulatory Authority (Authority) is established to supervise, regulate and monitor the three–tier pension scheme. The Authority has a comprehensive approval and monitoring system, including ensuring that:-

(i) only companies and individuals that meet the necessary criteria i.e. capital adequacy, financial soundness, fitness and propriety as well as internal control standards can become trustees, fund managers and custodians.

(ii) the components of the schemes are managed under trust arrangements and governed by the laws of the Republic of Ghana.

(iii) Scheme assets are held separate from the assets of trustees, fund managers and other service providers.

The functions of the Authority are among others to advise on pension policy, ensure compliance with provisions of the Act and supervise the implementation of the basic national social security scheme. The Authority will register occupational pension schemes, provident fund and personal schemes and regulate the affairs and activities of approved trustees to ensure that they are responsible and prudent in the handling of the assets entrusted to them. It will also sensitize the public on matters related to the various pension schemes, receive and investigate complaints of impropriety in respect of the management of pension schemes, receive, and investigate grievances from pensioners and provide for redress and advise government on the general welfare of pensioners

The governing body of the Authority is an eleven member Board consisting of a Chairperson, the Chief Executive of the Authority and other representatives from the Bank of Ghana, Organised Labour, National Pension Association and the Securities and Exchange Commission, among others.

Part Two - Basic National Social Security Scheme

This Part deals with the basic national social security scheme which is the first tier of the three-tier pension scheme. It is a revision of the existing Social Security Act, 1991 with an improved system of benefits.

The basic national social security scheme will concentrate on the payment of monthly and other related benefits. It is mandatory for all workers in the formal sector and optional for self-employed.

There is an age exemption for SSNIT contributors. Any employee under the SSNIT scheme who at the commencement of this Act is aged 55 years and above shall be exempted from the new scheme. They, however, have the option to join the new scheme.

The Social Security and National Insurance Trust is being restructured to operate the basic national social security scheme.

The governing body of the Trust is a Board of Trustees comprising a Chairperson and twelve others nominated by the President, Employers Association, Organised Labour and National Pensioners Association. The Board has a balanced representation of the major stakeholders with organized labour having the highest number of representatives.

The Act provides for classes of benefits to be paid to members of the SSNIT scheme who attain the retirement age, voluntarily retire or are incapable of normal gainful employment as a result of a permanent physical or mental disability.

The Qualifying period is reduced from 20 to 15 years and Survivors benefits period is increased from 12 to 15years

For contributors of the SSNIT Scheme, benefits in respect of accrued or past service (past credits) earned in respect of the 25% Lump sum payment is to be determined and paid in an equitable manner.

Part Three - Occupational Pension Schemes, Provident Fund and Personal Pension Schemes and Management of the Schemes.

Part Three of the Act deals with occupational pension schemes, provident funds and personal pension schemes as well as the management of the schemes. It provides for the second and third tier of the three-tier pension scheme and may be classified as the privately-managed schemes portion.

The occupational pension scheme which is the second tier is work-based and mandatory. The employee is paid a lump sum money on termination of service, death or retirement.

The privately managed schemes (2nd and 3rd tiers) allows the use of future lump sum pension benefits to secure mortgages. This means that workers can obtain their own houses before retirement by using their pension benefits as collateral.

The third tier scheme, which is voluntary, deals with provident funds and personal pension schemes. The provident fund will pay a lump sum money on termination of service, death or retirement.

The personal pension scheme is for individuals who want to make voluntary contributions to enhance their pension benefits beyond the mandatory first tier and second tier schemes and any provident fund scheme. But most importantly, it is also aimed at workers in the informal sector who are not covered by a retirement or pension scheme. Workers in the informal sector constitute about 80% of the working population.

Informal sector contributors will have two accounts, the retirement account (to provide benefits on retirement) and a personal savings account with rules for withdrawals before retirement.

The Act provides for the management of occupational pension schemes, provident fund and personal pension schemes including the funds.

The second tier mandatory scheme and the voluntary third tier will be privately-managed by approved Trustees licensed by the Regulatory Authority with the assistance of pension fund managers and custodians registered by the Authority.

Trustees who must be licensed by the Authority will be entrusted with the overall responsibilities for the administration and management of the privately-managed second and third tier schemes. They (a)may delegate administration to third party service providers; (b) will not keep custody of pension funds and (c) will also be responsible for appointing pension fund managers, custodians and other service providers as well as ensure their compliance with regulatory requirements.

Pension fund managers will be responsible for achieving the best possible returns on the funds within the specific investment parameters set by the trustees. They will

(a) not have access to pension funds;

(b) first be licenced by the Securities and Exchange Commission and thereafter registered by the Pensions Regulatory Authority and

(c) be independent of trustees and custodians.

Custodians licensed by the Securities and Exchange Commission and thereafter registered by the Pension Regulatory Authority will be responsible for (a) the safe holding of assets of a fund, separate from the trustee and pension fund manager; (b) the settlement of transactions involving fund assets and (c) will be independent of pension fund manager.

To safeguard the security of fund assets and hence the interest of the members, trustees, pension fund managers and custodians have to meet certain requirements. These include requirement for a licence as a trustee, requirements for a licence as a pension fund manager, investment policy restrictions on investments, possible penalty for breach of investment limits, and requirements for a licence as a custodian. Trustees licenced by the Authority would be required to take adequate insurance to indemnify scheme members against any losses of scheme assets caused by malfeasance or misconduct of the trustees or their service providers. Custodians also required to have a performance guarantee to cover the pension fund assets under their custody.

The Act provides for member-nominated trustees and directors. A specified number of trustees are to be nominated from beneficiaries (workers) to serve on board of trustees. Member involvement in the management of a scheme helps promote a sense of ownership and create confidence in the scheme.

Trustees of privately-managed occupational, provident fund and personal pension scheme will be required to gain sufficient knowledge of the law as it relates to pensions and trusts and the fundamental principles related to the funding and investment of assets.

In the same vein, trustees must prepare, review and maintain a written statement of the principles governing investment decisions.

A trustee or pension fund manager is required to invest funds of the second tier and third tier schemes in permitted investments in order to obtain safe and fair returns on the amount invested. The Act provides for restrictions on the investment of funds as well as restrictions on the sale, purchase or disposal of privately-managed pension fund assets.

Part Four – General Provisions

Part Four of the Pensions Act deals with general provisions in relation to supervision and examination disclosure of information, offences, penalties and enforcement powers among others. This Part basically deals with the powers of the governing Board of the Authority with respect to activities of all the schemes.

Transitional Provisions

The transitional provisions provide general guidance and guidelines on transitional matters related to the implementation of the National Pension Act, 2008.

The Cap 30 Scheme is not sustainable and will be phased out within four years from the commencement of the new pension law.

The Controller and Accountant-General's Department will continue to administer and pay gratuities and pensions to those who will remain on Cap 30 while it lasts.

There will, however, be unification of pension schemes within five years of the commencement of the new pension law.

CONCLUSION

It is envisaged that the new three-tier pension scheme will enhance pension benefits and increase the retirement income security of workers. Among other impacts, the new scheme will ensure improved living standards of the elderly, financial autonomy and independence of retirees, increased national savings and the availability of pool of long-term funds for investments which will contribute to national economic development.