FUNDAMENTALS OF THE CONTRIBUTORY PENSION SCHEME & THE LAGOS STATE PENSION REFORM LAW, 2007

BY THE LAGOS STATE PENSION COMMISSION (LASPEC)

INTRODUCTION

- On the 25th of June, 2004 when the 2004 Pension Reform Act was signed into Law, it became clear to all employers of labour that the introduction of the contributory pension scheme would have far reaching implications, both in the private & the public sector.
- Whilst the 2004 Pension Reform Act established the contributory pension scheme in the private sector, the Public service of the federation, and the Federal Capital Territory, every State Government was advised to enact Pension Laws applicable to her workers but section 101 of the Act stipulates that 'if any other enactment or law relating to pensions is inconsistent with this Act, this Act shall prevail'. Public service of the federation as defined in section 318 of the Constitution is made up of.......

Salient Features of the Act

- The scheme is made compulsory for all employees who have more than 3 years to retirement.
- It introduced contributions to be deducted from the salaries of employees in the public sector.
- It changed the structure of pension benefit administration from a defined benefit structure to that of defined contributions
- It introduced a regulator for pension matters in Nigeria – The National Pension Commission (PENCOM)
- Pension funds are now to be managed by pension fund administrators whilst custody would reside with licensed pension fund custodians i.e. the Act introduced two key operators in pension business i.e. pension fund administrators & pension fund custodians
- For additional comfort at old age, it introduced the concept of an employee making additional voluntary contributions (AVC)
- Retirement from active service is allowed from age 50

- Group life assurance to provide death in service benefits was made mandatory and each employer is to effect the insurance policy and pay the premium. The minimum benefit is 3 times annual total emolument defined in section 102 of the Act as being made up of annual basic salary, housing/rent and transport allowances.
- It introduced receivable benefits at retirement as being based on RSA balance, salary, gender, and age at retirement not on a known scale.
- The Act also recognizes the right to retirement benefit of any employee who was already under a pension plan/scheme existing prior to the commencement of the Act. Such rights are to be determined and credited into the retirement savings account of the individual. Where the pension scheme/plan before had been unfunded, then the rights are to be recognized in the form of an amount acknowledged through the issuance of retirement bonds which will be redeemed at retirement/exit of an employee. In such cases, redemption fund accounts must be created and funded. For the federal public service, an amount equal to 5 percent of the total monthly wage bill of employees is paid into the retirement redemption fund account maintained with the Central Bank of Nigeria.

- Every employee covered by the Law is to open a retirement savings account (RSA)
- With the new Law, transfer from one employment to another, does not in any way affect the right of an employee to receive benefits for service rendered. i.e. the issue of eligibility or qualifying period no longer exists. With the Law, uniform set of rules have been established for pension administration in the public & private sector.
- Sanctions/fines are to apply on erring employers of labour
- For existing pensioners, deferred pensioners, and exempted employees, where benefits are paid under the pay as you go scheme, the benefits are to continue to be so paid and management would reside on the pension transitional departments e.g. the civil service pension departments/office etc.

- The Act in section 42 focused on the NSITF scheme operated in the private sector and which was a compulsory scheme by the federal government for all private sector employers – The NSITF Act of 1993. With the new law, NSITF contributions are to be credited into the new RSA accounts by year 2009 i.e. 5years after the commencement of the new Law.

- Where an employer has pension assets of more than N500m, it can apply for a closed PFA license to manage the pension funds directly or through a wholly owned subsidiary dedicated exclusively for the management of such pension funds. The closed PFA manages the assets like any other PFA as the funds/assets are to be transferred to a custodian and the closed PFA will abide with the laid down regulations by PENCOM to pension fund administrators on investment of pension funds.

THE LAGOS PENSION LAW (LPL. 2007)

- Established the contributory pension scheme for all pensionable employees in the public service of the State, employees of local government councils, tertiary institutions and all parastatals established by the State Government.
- The commencement date of the Lagos Law is 19th March, 2007.
- Contribution rates are as stipulated in the 2004 PRA. i.e. a minimum of 15% (Ee & er) of monthly basic salary, housing & transport allowances

- As is with the 2004 PRA, an employer could opt to pay the full 15% monthly contribution. Section 14 of the Law
- Contributions are to be deducted at source and paid to the Custodial Accounts of the employees PFAs not later than 7 working days from the day the employee is paid his salary. Penalties abound for late payment
- Death benefit is a minimum of 320% of salary. The Law in section 15 mandates employers to effect a life assurance cover for a minimum of 3 times an employee's total emolument. However, in section 10 (3), it is provided that 'in addition to the entitlement of an employee who dies in active service, 20% of total emolument shall be paid to the deceased's retirement savings account in addition to the life assurance cover'. The State Government effected life assurance cover of 350% for active workers.

- Section 22 of the Law, established the Lagos State Pension Commission which in section 3 is charged with the mandate of regulating, supervising and ensuring the effective administration of pension matters in the Lagos State Public Service.
- The functions & powers of the Commission (LASPEC) as stated in sections 32 and 33 are as follows:

- For the provision of pension rights for service in the State prior to the commencement of the Law, retirement redemption fund accounts are to be created and funded by the setting aside of funds. (This is in acknowledgement of the fact, that the old scheme was largely unfunded). According to section 41 of the Law, the account shall be funded with 5% of the total monthly wage bill of active workers. For tertiary institutions and parastatals, the State Government shall deduct the said 5% at source from subventions or budgetary allocations due to such institutions and parastatals. The amount in the redemption fund account shall be used to redeem any retirement benefit bonds. According to Section 19 of the Law, civil servants and employees of State- owned parastatals are to be issued with Lagos State Government Retirement Bonds whilst Local Government employees are to be issued with Lagos State Local Government Retirement Bonds.
- According to the Law, before there can be access to retirement savings account, the employer must issue an employee who retired or was dismissed from Service with a Certificate of Clearance from his last place of employment. Upon the presentation of the Certificate to LASPEC, LASPEC will issue a Clearance Certificate to the PFA and accompany same with a copy of the Bond Certificate stating details of amount to be redeemed into the employee's RSA for service spent in the State. With this practice, LASPEC will be able to maintain the databank for pensioners under the contributory pension scheme.

- Regulation & supervision of the contributory pension scheme & the transitional pension departments.
- Registration & maintenance of the list of approved pension fund administrators.
- Monitor & ensure that the PFAs abide with the guidelines for the investment of pension funds as laid down by PENCOM
- Ensure the maintenance of a data bank for pensioners in the State
- Carry out public awareness and education on the contributory pension scheme

- Formulate, direct and oversee government policy on pension matters in Lagos State in accordance with the 2004 PRA
- Request or call for information from any employer or PFA or any other person or institution on matters relating to retirement benefits of employees in the Public Service of Lagos State
- Investigate any PFA or other parties involved in management of pension funds
- Impose administrative sanctions or fines on erring employers and pension fund administrators and
- Do other things which the Commission in its opinion considers necessary in ensuring efficient performance of the functions of the Commission

APPROVED PENSION FUND ADMINISTRATORS

- The National Pension Commission gave operating license to 26 PFAs, 8CPFAs & 5 PFCs. These are:

PFAs:

IBTC Pension Managers

Trustfund Pensions Plc,

ARM Pension Managers

NLPC Pension Fund Administrators

Leadway Pensure PFA

Crusader Sterling Pension Managers

- Sigma Vaugh Sterling Pensions
- First Alliance Pensions Ltd.**
- First Guarantee Pension Managers
- Future Unity Glanvill Pension Managers
- Pension Alliance Limited.
- AIICO Pension Managers Ltd.
- Anchor IEL Pension Managers Limited
- Fidelity Pension Managers
- IGI Pension Managers
- Standard Alliance Pension Managers*
- Royal Trust Pension Managers
- Penman Pensions Limited
- Premium Pensions Limited
- Crib Pension Managers
- APT Pension Managers
- Evergreen Pensions Limited.

- Cititrust Pensions
- Oak Pensions Ltd.
- Amana Pension Managers
- Legacy Pension Managers

PFCs
First Pension Custodian
Zenith Pension Custodian
UBA Pension Custodian
Oceanic Pension Custodian
Diamond Pension Custodian

CPFAs
Chevron CPFA Limited
Nestle Nig. Trust Limited
Nig. Agip CPFA Limited
Progress PFA
Shell CPFA
Total (E &P) Nig. CPFA
Unico CPFA

The Lagos State Government in 2007 gave approval for the first 6 PFAs on this list to manage the retirement savings account of employees in the Lagos Public Service

UNDERSTANDING PARASTALS IN LAGOS STATE

- To enable LASPEC ensure the effective administration in the State, the Commission must ensure that all agencies of government abide with uniform rules on contributions, consistency of contribution payments, benefits on death, provision for accrued pension rights and benefit administration processes and procedures

- It is acknowledged that there are:

1. State owned parastatals which are fully subvented. Salaries of all staff are paid for by the State Government and the staff have oracle numbers.
2. Subvented Parastatals where some employees are state employees but the parastatals from their subvention are to maintain parastatal staff and provide end of service benefits. The nature of end of service benefit is in line with that obtainable in the civil service prior to April, 2007.
3. Self funding Parastatals – There may be a few staff with salaries paid for by the government but majority of workers have salaries paid for by the parastatal and may have end of service benefit different from that of the civil service e.g. having only gratuity entitlements.
4. Partly owned Parastatals – These ones operate like private sector employers; had subscribed to the NSITF scheme, had commenced the contributory pension scheme in January, 2005; may have had other end of service benefit arrangements e.g maintenance of a contributory pension scheme managed by an insurance company alone or in addition to gratuity benefits which are not in line with what obtains in the civil service.

- Questions that confront us are these:

1. Employees of subvented parastatals – Are employees registered? Employees contributions are they being deducted & remitted to the PFA custodial account? Is the parastatal forwarding her 7.5% contributions together with that of the employee? Is there insurance cover arrangement in the event of death? What is the group life sum assured? Is it a minimum of 300% as stated in the Law? Does the parastatal have the wherewithal to pay the 20% additional benefit and if not – Is the group life arrangement for 320% in which case for a small premium the liability to pay the additional 20% of salary has been transferred to an insurance company? Past service benefit provision – Has this been made i.e. has a fund been created like the redemption fund account for the provision of the liability? Has the liability been determined at all i.e. has an actuarial valuation exercise been carried out and what is the cut off date?

- For self funding parastatals – Are employees when employed, given employment handbooks which details the terms and conditions of their employment which differ from that obtainable in the civil service? With the introduction of the contributory pension scheme, benefits are expected to be uniform and employees going forward with details of how the previously existing arrangement will be accomodated.

- For partly owned employees operating as a private sector enterprise – Can it can be argued that these are bound by the provisions of the 2004 PRA which contains rules which are more stringent than that of the Lagos Pension Law?
- The position of LASPEC is to ensure that such an establishment complies with the provisions of the 2004 Pension Law.

- All Parastatals in the State need to be aware that non compliance with the provisions of the Law would give rise to sanctions.

CONCLUSION

- The intention of government is to ensure the wellbeing of its employees both in and out of service.
- LASPEC as the body set up to supervise pension matters in the State will be in the vanguard of ensuring that the intention of government is achieved.

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