ATIONAL PENSIONS (AMENDMENT) BILL, 2014

NATIONAL (AMENDMENT) BILL, 2014 ARRANGEMENT OF SECTIONS

NATIONAL PENSIONS (AMENDMENT) BILL, 2014

A BILL ENTITLED NATIONAL PENSIONS (AMENDMENT) ACT, 2014
AN ACT to amend the National Pensions Act, 2008 (Act 766) to reduce the age for exemption from the first-tier Scheme and to provide for related matters. PASSED by Parliament and assented to by the President:

Section 55 of Act 766 amended

1. The National Pensions Act, 2008 (Act 766) referred to in this Act as the principal enactment is amended in section 55 by the substitution for subsection (3) of

"(3) The administrative expenses involved in the transfer of the two and a half per centum of the social security contributions to the National Health Insurance Scheme shall be charged to the National Health Insurance Authority on a formula to be agreed on by the National Health Insurance Authority and the Trust."

Section 60 of Act 766 amended

2. The principal enactment is amended by the substitution for section 60 of

"60 (1) A worker who is entitled to retirement benefits under a pension scheme in existence before the commencement of this Act and is aged fifty years or above is exempt from the scheme.

(2) Despite the provisions of subsection (1), a person who is fifty years and above and exempted from this Act may opt to join the new scheme.

(3) For members exempted under subsection (1), the employer and the worker shall continue to contribute to the worker's retirement benefit at the same level of contribution before the commencement of this Act until the worker retires.

(4) Where a worker is exempted under subsection (1) but has already contributed to the second-tier scheme, the contributions of the worker under the second-tier scheme shall be refunded to the Trust.". Section 64 of Act 766 amended

3. The principal enactment is amended in section 64 by the substitution for paragraph (b) of subsection (1) of "(b) the Director-General shall serve a demand notice on the defaulting employer and if payment is not made within thirty-days after the date of service of the notice, the Director- General may proceed to collect and recover the contribution and the penalty and the employer is liable to prosecution by the Trust;". Section 73A inserted

4. The principal enactment is amended by the insertion of section 73A as follows:

"Payment of benefit to a non-Ghanaian member

73A. (1) A non-Ghanaian member of the scheme who satisfies the Trust that the member is emigrating or has emigrated permanently from Ghana shall be paid a lump sum benefit.

(2) Where the member qualifies for pension, the present value of the member's pension shall be paid as lump sum benefit.

(3) Where the member does not qualify for a pension, a return of contribution together with interest calculated at seventy-five percent of the interest rate of the ninety-one day Government treasury bill shall be paid as lump sum benefit.".

Section 77 of Act 766 amended

5. The principal enactment is amended in section 77

(a) by the substitution for “fifty-per centum” in subsection (2) of “thirty-seven and half per centum”; and

(b) by the substitution for subsection (3) of

“(3) Where a member works beyond the minimum contribution period the amount of pension payable shall be increased by 1.125 per centum for every additional twelve months worked up to a maximum of sixty per centum.”.

Section 81 of Act 766 amended

6. The principal enactment is amended in section 81 by the substitution for subsection (1) of

“(1) A person who is required or entitled to become a member of the Social Security Scheme shall furnish to the employer particulars concerning the dependants of the member nominated by that member for receipt of benefits on the death of that member.”.

Section 83 of Act 766 amended

7. The principal enactment is amended in section 83 by the substitution for paragraph (d) of subsection (1) of

“(d) fails to pay contributions or a penalty imposed by the Trust in respect of unpaid contributions or fails without reasonable excuse to submit or refuses to submit contribution payment with a contribution report or accompany contribution to the Trust within the prescribed period in the form and manner prescribed.”.

Section 91 of Act 766 amended

8. The principal enactment is amended in section 91 by the substitution for subsection (3) of

“(3) In the discharge of duties under this section, where an inspector requires an employer to produce documents related to appointment, attendance, wages of workers and contributions or liability of employers to contribute to the scheme or any other relevant document, the employer shall produce the documents within seven days of receipt of the request and the inspector may take copies of or extracts from the documents.”.

Section 94 of Act 766 amended

9. The principal enactment is amended in section 94 by the substitution for paragraph (b) of subsection (1) of

“(b) where within five years after the commencement of this Act, a member retires on attaining the age of fifty-five years and has contributed to the scheme for a period of less than twenty years that member is entitled to a reduced pension.”

Section 100 of Act 766 amended

10. The principal enactment is amended in section 100 by the substitution for subsection (2) of

“(2) Subsection (1) does not apply if a member exercises an option to have the accrued benefit of the member transferred to another scheme in accordance with the regulations of the scheme.”.

Section 108 of Act 766 amended

11. The principal enactment is amended in section 108 by the substitution for paragraph (a) of subsection (1) of

“(a) is at least fifteen years of age,”.

Section 109 of Act 766 amended

12. The principal enactment is amended in section 109 by the substitution for subsection (2) of

“(1) A self-employed person may join and pay
contributions to a personal pension scheme if that person
is of an age that is not more than the statutory retirement
age or is at least fifteen years of age.”.

Section 120 of Act 766 amended

13. The principal enactment is amended by the substitution for
section 120 of

“120. At the commencement of this Act, occupational
pension schemes, provident fund schemes, personal
pension schemes and other privately-managed pension
schemes shall only be managed by trustees approved and
licensed by the Authority.”.

Section 147 of Act 766 amended

14. The principal enactment is amended in section 147 by the substitution
for paragraph (a) of subsection (1) of

“(a) advise the Trustee on the investment of pensions
funds and assets in accordance with the provisions
of this Act;”.

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MEMORANDUM

The object of the Bill is to amend the National Pensions Act, 2008
(Act 766) to reduce the age for exemption from the first-tier scheme and
to provide for related matters.

The National Pensions Act, 2008 (Act 766) sets up a three-tier
contributory scheme for workers in the formal and informal sector as
follows:

(a) a mandatory basic national social security scheme managed
by the Social Security and National Insurance Trust which
is the first-tier;

(b) a mandatory fully funded and privately managed occupational
pension scheme, which is the second-tier; and

(c) a voluntary fully funded and privately managed provident
fund and personal pension scheme, which is the third-tier.

Under the Act, the National Pensions Regulatory Authority is
mandated to oversee, regulate and monitor the operations of all pension
schemes in the country. Five years after the operation of the Act, the
National Pensions Regulatory Authority as well as the Social Security
and National Insurance Trust have been confronted with operational and
administrative challenges in relation to the first-tier scheme as regards
the implementation of some provisions of the Act in relation to the
percentage for the computation of pensions, the age for exemption of
persons from joining the new scheme as well as transitional provisions
for the transfer of moneys from Social Security and National Insurance
Trust to the National Health Insurance Scheme.

It has therefore become necessary to amend the Act in order to
facilitate a sustainable computation and payment of pensions to prevent
a collapse of the first-tier pension scheme operated by the Social Security
and National Insurance Trust.

Clause 1 of the Bill amends section 55 of the National Pensions
Act, 2008 (Act 766). It provides that the administrative expenses involved
in the transfer of the two and a half per centum of the Social Security
Contributions to the National Health Insurance Scheme shall be charged

to the National Health Insurance Authority on a formula agreed on by
the National Health Insurance Authority and the Social Security and
National Insurance Trust.

Clause 2 changes the age for exemption under the Act from fifty-five
years to fifty years. The initial age for exemption of fifty-five years under
the Act has made pensioners worse off in terms of the lump sum portions
of their pensions. Some pensioners have lost large sums of money in the
computation of their pensions. The intent of the Act was not to make

pensioners worse off but to improve retirement benefits. The amendment therefore seeks to cover members of the scheme who were fifty years at the commencement of the Act but are disadvantaged in the computation of pensions.

Clause 3 provides for the collection of contributions and empowers the Social Security and National Insurance Trust to prosecute employers who fail to pay contributions.

The Bill also seeks to re-introduce the payment of emigration benefits to encourage expatriates to enroll onto the first-tier scheme which is the Basic National Pension Scheme operated under the Social Security and National Insurance Trust and obtain benefits on permanent emigration from Ghana. This is reflected in clause 4 of the Bill.

Clause 5 corrects the formula for the calculation of pensions under section 77 of the Act from fifty-percent to thirty-seven and a half percent and in respect of contributors who work beyond the minimum contribution period, the additional percentage to be added to their pension payment has been corrected from one and a half percent (1½%) to one point one two five percent (1.125%). This is because with the reduction of contribution payable to the Social Security and National Insurance Trust to 11%, the first-tier scheme will be unsustainable if the current percentages for the computation of pensions are left as it is in the Act.

Provision is made under clause 6 for members of the Basic National Social Security Scheme to furnish their employer with particulars

concerning dependants of the member who are entitled to receive the death benefits of that member.

Clause 7 deals with contributions and makes it an offence for an employer who fails to pay contributions or a penalty imposed by the Social Security and National Insurance Trust for failure to pay contributions. The clause further provides that the employer may be prosecuted and be liable on conviction to a fine or to a term of imprisonment.

Clause 8 provides that where the Director-General of the Social Security and National Insurance Trust requests an employer to produce relevant documents, the employer shall do so within seven days, whilst clause 9 deals with circumstances under which a member of the Social Security Scheme is entitled to reduced pension.

Clause 10 to 13 amends sections 100, 108, 109 and 120 of the Act respectively to make the existing provisions clearer.

Clause 14 amends section 147 of the Act to draw a clear distinction between the functions of Trustees and Fund Managers. Under the Act the functions of the Pension Fund Manager is to advise the Trustees on investment of pension funds and assets while the management of the pension funds is the sole responsibility of the Trustee. The amendment is therefore necessary to prevent conflict between the Trustees and Fund Managers.

The passage of the Bill will to a large extent improve and enhance the administration of pensions in the country.

HON. HARUNA IDDRISU (MP)

Minister for Employment and Labour Relations

Date: 1st December, 2014.