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NEWSLETTER

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THE CONTRIBUTORY PENSION SCHEME: WHAT YOU NEED TO KNOW.

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INTRODUCTION

Pension is the amount of money paid periodically by an organization to an employee after retirement, the payment is generally based on the duration, of employment, wages, allowances or salary of the employee and other applicable terms of employment.[1],[2]

Pension systems are generally delineated in two streams namely:

- **Defined benefit (DB) schemes** which promises employees a fixed pension amount on retirement.
- **Defined contribution (DC) schemes** which is an arrangement that provides for the employer to pay a certain percentage and the employee also to pay another percentage of money which will be paid to the employee upon retirement.

Nigeria's ideal pension system which is adopted for public servants is the defined benefit scheme. However, this system was plagued with various challenges such as lack of funding

from the Government, corruption, mismanagement, and embezzlement of funds by pension administrators and poor supervision of pension system generally. In a bid to tackle these challenges the National Pension Commission (PENCOM) introduced a mandatory contributory pension scheme to ensure that at retirement or old age, employees are duly catered for from the contributions deducted from their remuneration generated during the course of their employment.

WHAT IS CONTRIBUTORY PENSION SCHEME?

This is an arrangement whereby employees and employers are mandated to collectively contribute a percentage

[1] Oxford Advanced Dictionary, 8th Edition

[2] Black's Law Dictionary, 6th Edition.

of an employee's emolument from where the employee will be paid retirement benefits.

LEGAL FRAMEWORK

The Contributory Pension Scheme (CPS) was established by Section 3 of the Pension Reform Act, 2014 and it is put in place to ensure that every worker receives his retirement benefits as at when due. It is regulated by the National Pension Commission[3] , and the Pension Reform Act, 2014, is the governing law. Power was conferred in National Pension Commission as the governing body by virtue of Part V of the Act. A contributory pension scheme is also established by the Nigeria Social Insurance Trust Fund (NSITF) which is established for employers in the private sector to provide retirement pension benefits, survivors benefit and retirement grant and the general welfare of employees.

OBJECTIVES OF THE SCHEME:

The principal objective of the CPS is to ensure that every worker receives his retirement benefits as at when due which will assist in catering for their livelihood upon retirement/ old age. Some other objectives include the establishment of uniform rules, regulations, and standards for administration of pension matters, the establishment of strong regulatory & supervisory framework and also to empower employees[4].

[3] N.P.C V. C.T.P.M LTD (2018) 16 NWLR (Pt. 1645) 289 *(Pp. 301-302, paras. H-A)*

[4] Contributory pension scheme as instrument for liability controls for the states: Issues and prospects by M. K. Ahmad

APPLICABILITY OF THE SCHEME

The contributory pension scheme has been made mandatory for every organization be it in the private sector or the public sector.[5]

FUNDING

The CPS is jointly funded by both the employer and the employee. Pursuant to **Section 4(1) Of the Pension Reform Act, 2014**, the employer is required to contribute a minimum of 10% of the employee's monthly emoluments (basic salary, transport and housing allowance), while the employee is required to contribute a minimum of 8%. However, the contributions are allowed to exceed the minimum threshold.[6]

The contributions are to be made to the Retirement Savings Account (RSA) which is controlled and managed by either the Pension Fund Administrators (PFA) or Pension Fund Custodians (PFC) of their choice[7].

A holder of an RSA can transfer his account from one PFA to another not more than once a year[8].

This guarantees security in terms of funding as opposed to the Government dependent nature of the old schemes.

WITHDRAWALS/ RETIREMENT BENEFITS

Access to the RSA is only allowed upon retirement.

Withdrawals under the contributory pension scheme are regulated by **Section 7** of the **Pension Reform Act, 2014**. The provision stipulates that once an employee has retired or attained the age of 50 years, he can access the sum in his retirement savings account thus:

1. Withdrawal of lump sum **provided the amount left after the withdrawal shall be sufficient to procure a programmed fund withdrawals or annuity for life.**
2. **programmed monthly or quarterly withdrawals.**

[5] Section 3 of the Pension Reform Act, 2014.
[6] Section 4 of the Pension Reform Act, 2014.
[7] Section 11 of the Pension Reform Act, 2014
[8] Section 13 of the Pension Reform Act, 2014

3. annuity for life with monthly or quarterly payment.
4. **According to the Universities (Miscellaneous Provisions (Amendment) Act, 2012 for professors covered by same.**
5. **other categories of employees entitled, by virtue of their terms and conditions of employment, to retire with full retirement benefits shall still apply.**

JUDICIAL FRAMEWORK.

The concept of Contributory Pension Scheme and the rights accrued therein have been give judicial backing in a plethora of authorities one of which is the case of **Emokpae v. Stanbic-IBTC P.M. Ltd.(2015) 17 NWLR (Pt. 1487) 57 page 72 para. F-H Per IYIZOBA, J.C.A.** where the Court of Appeal restated the importance of pension and made it unlawful to withhold a person's pension benefits once he has fulfilled the prescribed requirements.

BENEFITS OF THE SCHEME

i. Pension benefits derived from the Contributory Pension Scheme can be paid to the beneficiaries of a deceased contributor. This includes life insurance benefits.[9]

ii. Pension assets cannot be used to meet the claim of creditors, be seized, be sold be granted as loan.

iii. Pension assets cannot be subject to execution of a judgment or estopped from being transferred to another custodian.[10]

COMPARATIVE ANALYSIS OF PENSION SYSTEMS IN OTHER JURISDICTIONS.

[9] Section 8 of the Pension Reform Act, 2014

[10] https://www.pencom.gov.ng/wp-content/uploads/2017/04/Contributory-pension-scheme-as-instrument-for-liability-controls.ppt

UK PENSION SYSTEM

The UK government has a state pension system, where those who have worked in the UK and contributed National Insurance (NI) payments – a tax that's paid on your earnings – receive regular payments for funding their retirement.[11] Participation in the state pension system is mandatory[12].Individuals can supplement their pension amount with workplace pensions and private pension investments.

In claiming state pension, residents personally instigate procedures with their local pension service as same is not issued automatically.

Workplace pensions.

This is a compulsory scheme for all employers whereby employees are automatically enrolled upon qualification for same.[13] Employees automatically pay in 8% (3% employer and 5% employee) of their monthly salary into their workplace pension. Employees may opt to pay above or below the threshold or opt out of workplace pension altogether.[14]

The UK established a National Employment Savings Trust (NEST), which is a direct Contribution scheme a DC set up to aid employers fulfil their obligation.[15]

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11 https://www.expatica.com/uk/finance/retirement/uk-pension-system-927440/

12

13 https://www.gov.uk/workplace-pensions/joining-a-workplace-pension

14 https://www.gov.uk/workplace-pensions/what-you-your-employer-and-the-government-pay

15 https://europa.eu/epc/sites/default/files/docs/pages/united_kingdom_-_country_fiche_on_pensions.pdf

Private pensions.

This system is more flexible. It entails contributions either monthly or via a lump sum, and can offer various tax benefits, and sometimes incorporate employer's contributions. It largely offers a private means of saving for retirement to those without access to an occupational scheme or who change jobs frequently.

There are two main types of private UK pension funds:

- insured personal pension plans
- self-invested personal pension plans (SIPPs)

Regulatory Body.

The Pensions Regulator (TPR) is the UK regulator of work-based pension schemes. It works with trustees, employers, pension specialists and business advisers, giving guidance on what is expected of them.

TPR is an executive non-departmental public body, sponsored by the Department for Work and Pensions.[16]

[16] https://www.gov.uk/government/organisations/the-pensions-regulator

UNITED STATES OF AMERICA

The U.S. retirement income system also operates a hybrid pension system which involves Social Security program as well as voluntary private pensions, which can be occupational or personal.

Social Security is an insurance program. Workers pay into the program, typically through payroll withholding where they work. Self-employed workers pay Social Security taxes when they file their federal tax return.

CONTRIBUTION

Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (IRC) classify employer-sponsored retirement plans as either defined benefit (DB) plans or defined contribution (DC) plans.

LEGAL FRAMEWORK OF PENSIONS IN THE UNITED STATES OF AMERICA

The principal law which regulates pensions in the United States is the Employee Retirement Income Security Act of 1974 (ERISA) which has the Pension Benefit Guaranty Corporation as its governing body.

DENMARK

Denmark operates a public basic pension scheme, a supplementary pension benefit tied to income, a fully funded defined-contribution plan, and mandatory occupational schemes.

ISRAEL

Israel's pension system is comprised of a universal state pension and private pensions with compulsory employee and employer contributions. In most cases, annuities are paid from the private pension system.

CONCLUSION

The Contributory Pension Scheme is a toe in the right path, taking the lead from the United Kingdom workplace pension, the Denmark pension system, the Israel pension system, and the United States who have all adopted the defined contribution system to supplement the already existing defined benefit schemes in the respective states. The scheme ensures that retirees are duly catered for upon retirement and even upon their death, contributor's benefits are transferable to beneficiaries. Furthermore, it provides a solution to the issue of embezzlement and mismanagement of pension funds by administrators. The scheme is indeed commendable, and the mandatory nature should be enforced across all organizations in Nigeria.