<u>The Good Features of National Pensions Act, 2008 Act 766 (as amended)</u>

Background of Pensions

The development of Pensions and Social Security schemes in Ghana have had a very interesting history. While Social Security in Europe was as a direct consequence of the industrial revolution, in Ghana, it was the result of a combination of factors such as colonization, industrialization and urbanization.

Our history of establishing Social Security can be looked at both Pre- and Post- independence eras.

In the Pre-independence era, private schemes were established for urban wage earners. Some of these schemes included the Pension Ordinance of 1946 (a non-contributory Pension Schemes established for African Civil Servants), the Teachers' Pension Ordinance (which was also established under the Ordinance of 1946). My alma-mater, the country's premier University of Ghana, then University of Gold Coast, has also established a Private Superannuation Scheme for senior members and lecturing staff.

Meanwhile, some private organisations have also established, and were operating Superannuation, Pension and Provident Fund Schemes for some category of their employees. Your guess is right, if your conclusion is that these organisations were foreign owned.

In the post-independence era, attempt was made to expand the coverage of Social Security for workers due to the social, economic and political challenges created by the rural-urban migration in the search of formal jobs (white-collar jobs.)

The Compulsory Savings Scheme was established in 1960, which had its own challenges and was abolished in 1965. Meanwhile, the first President of Ghana, Osagyefo Dr. Kwame Nkrumah established the T. O. Asare Committee with the terms of reference of making recommendation for the possibility of establishing a National Pension and Insurance Scheme for workers. The first President Osagyefo Dr. Kwame Nkrumah announced this at the opening of the Trade Union Hall in Accra in 1960.

Consequently, on 17th February, 1965 the parliament of the first Republic of Ghana passed the Social Security Act, 1965, Act 279 to establish a Social Security Fund to provide for contributors, benefits under superannuation, invalidity, Survivor, among others.

That was the turning point in the life of workers as Social Security Schemes of a national dimension was enacted for workers. *(Are you interested in the history of Pensions? Read more from SSNIT website.)*

National Pensions Act, 2008 Act 766

My purpose of this article is actually to discuss the "Good Features (fine lines) of Act 766" which has revolutionalise Social Security administration, practice and the benefits workers and contributors in Ghana will achieve.

I am very sure we are all aware of the establishment of the (Late) Bediako Commission to make recommendations for pension reforms in Ghana. Let me also state here that the workers agitations that engulfed the pre- and early post-independence eras regarding pensions are all similar in nature. Similar "concern arose to a peak in agitation and protests by workers organisations" to restore public service pensions to CAP 30 (Par. 3; White Paper on the Report of the Presidential Commission of Pensions, July 2006). These agitations can actually be summarised as inadequate pensions and inefficient management or administration of Social Security funds.

The Government of Ghana's White Paper on the Report of the Presidential Commission on Pensions accepted all recommendations made by Mr. Bediako led Presidential Commission on Pensions.

The National Pensions Regulatory Authority (NPRA), as Act 766 stipulates was established in 2010 with Mr. Daniel Aidoo Mensah appointed as the first Chief Executive Officer with Mr. Hayford Attah-Krufi, as the current.

At this stage before we dealt more into the discussions, I want to define two terms, which are normally used interchangeably, however accepted, but not the same.

These are:

i. Social Security – This "may be defined as any **programme of social protection** established by legislation, or any other mandatory arrangement, that provides individuals with a **degree of income security** when faced with the contingencies of old age, survivorship, incapacity, disability, unemployment (including retirement) or rearing children" – (ISSA definition). Note the "degree of income security"
ii. Pension – this is also defined as "a **regular payment** made **during a person's retirement** by the state and/ or from an investment fund to which that person or their employer has contributed during their working life"

Whiles Social Security is a programme of and for social protection, the regular payments or benefits received at qualification by a contributor to the programme is what is referred to as Pension. However, as I have said earlier there is a degree of pardon when both terms are used interchangeably.

Fine Lines of the Act

I must confessed that I have not read a lot of the legislations of the best pension states; for example Netherlands, Denmark, South Korea, UK, USA and etc. however, my little knowledge and exposure to the best practices of social security programs convinces me that Ghana has one of the best Social Security legislation in the world. I must commend the Bediako Commission and the Consultant, Daniel Aidoo Mensah for effectively considering our cultural disposition and reflecting it well in the Act.

Some of the Fine Tactical and Technical Provisions

My own discussion of some of these fine tactical and technical provisions of Act 766 may not be exhaustive. I believe that depending on one's experience, profession, desire and expectation of Act 766, different perspectives would be propounded as great attributes of the Act. For instance, I expect a legal, or insurance or actuarial professional to have different perspectives to mine.

However, as a professional accountant who is making a career in the Fund Management and Pension sectors, these are my top picks; and are not in order of preference:

i. Ring-fenced of members' contributions:

One of the greatest attributes and provisions that was captured in the Act is the ring-fencing of members contributions to custody accounts. The Act demands and so being practiced that any deductions from workers and contributions being remitted to Trustees are paid into the Custody accounts of the Trustees. In other words, it is against the law that contributions of members are paid into any Trustees' ordinary or operational bank accounts.

In Ghana, only insurance companies or banks who can operate as custodians upon receiving the requisite licenses from the Security and Exchange Commission (SEC) and registered by the NPRA as a service provider. This makes them highly regulated and supervised by both regulatory institutions. Custodians are aware and know legitimate payments that Trustees can instruct. Custodians have the right to reject and report to NPRA any suspicion of payments they think are illegitimate, instructed by a Trustee.

ii. A combination of State and Private Pension Administrations:

Another wonderful feature of our new pension's dispensation that the reform brought, is the combination of State administration of part of the retirement contributions and Private Pension administrators which are represented by Trustees (both Corporate Trustees and Employer Sponsored Schemes). Social Security and National Insurance Trust (SSNIT) obviously is the State administrator.

SSNIT is now only managing the mandatory Tier 1 contributions, which is eleven percent (11%) while the Trustees manage the mandatory Tier 2 of five percent (5%) and the voluntary Tier 3, which is up to a maximum of sixteen-point-five percent (16.5%) of basic salary.

What this approach have giving us is to ensure that not all contributors funds are put in "one basket" as we say in investment. In a way, the State involvement or authority over SSNIT is an assurance of guarantee or "insurance" for retirees and potential retirees.

The two again, differs in objective when it comes to the investment of funds. For instance, SSNIT, inter alia, can undertake investments in infrastructure like real estate and even own shares in non-listed companies, Trustees cannot; however Trustees can only do so through alternative investments route.

Again, under Act 766, SSNIT is now obliged to pay you your regular (monthly) pensions only from your Tier 1 (one) contributions when you are on retirement, whiles the Trustees now will pay you your lump sum from Tiers 2 and 3 contributions.

This obviously is a division of responsibilities, which I admire so much about Act 766.

iii. A combination of Defined Benefit and Defined Contribution Schemes

The next fine line Act 766 introduced is the combination of defined contribution and defined benefit to determining pensions.

While defined contribution scheme is defined by the Act as "a pension scheme providing benefit formula for calculating benefit amounts without regard to contributions", defined contribution is also defined as "a pension scheme in which the contributions are made to an individual account for each participant. The retirement benefit is dependent upon the investment experience and in case of profit sharing plans, amounts which may be allocated to the amount owing to forfeitures by terminating employees. To understand and appreciate, readers should look at both definitions from the angle of "how pension amounts (payments) are determined?"

SSNIT has always determined pension amount based on the defined benefit approach and they still do under Act 766. The formula for computing your pension based on defined benefit approach by SSNIT is the "average salary of the three best years of a member's working life." The minimum pension you are qualified for is thirty-seven-point-five percent (37.5%) on a minimum contribution of one hundred eighty (180) months i.e. fifteen (15) years. However, where a member contributes more beyond the minimum contribution period, the pension payment is increased by one-point-one-two-five percent (1.125%) for every additional twelve months contributed up to a maximum of sixty (60%) per centum.

Fortunately, contributors to SSNIT have access to their statement every quarter where the information of your three best years are available. I believe that anyone with the formula above can do a cursory computation to know how much he or she would be due in pensions from SSNIT if they retired today.

I would also humbly suggest and request from SSNIT to include additional information of how much workers would be due in pension payment if they should go on retirement at the statement date. I believe this information would pre-informed us of how much pension one is accumulating during our working life.

The Trustees by the Act use the defined contribution approach where, every workers' contribution is paid into an account opened for that purpose in their name. Fund managers advise the Trustees about the best performing investments the contributions should be placed in. These investments follow a Statement of Investment Policy (SOIP) formulated out of the investment guidelines provided by the NPRA. The regulator approves the SOIPs for Trustees to implement and abide by them.

Under defined contribution approach, workers contributions grow by the returns (interest, gains or capital appreciations) that the investments make.

These approaches give the contributor the opportunity of an assured minimum pension payment from SSNIT while again take advantage of returns on our investment jurisdiction.

For me, I conclude here that, it is again, a good way of diversifying our pension funds in our limited investment climate.

iv. **Tripartite Arrangement of Service Provision**

The ingenuity of tripartite arrangement in the service provision for private pension providers in the Act is highly commendable. I believe this was because of the learnings the commission availed themselves to from the financial sector where some owners have misapplied depositors funds through dubious schemes and fraudulent companies.

The three service providers are Corporate Trustees (who are Administrators), Fund Managers (FM) and Fund Custodians (FC).

Even though Administrators are responsible for the appointment of the other two service providers for the schemes, there is a very high level of professionalism and independence in the delivery of their services when appointed. They are on contracts, approved by the regulator; and deliver their services in accordance with a standard operating policy in accordance with the legitimacy of their licenses and the T&Cs of the contracts.

These service providers work in a very professional relationship with the Administrators however have direct access to the regulator to seek clarification, opinion and understanding on any instructions given by the Administrators that they do not understand (or looks suspicious.)

This arrangement has giving a huge assurance to contributors that their funds are highly secure and safe and would have access to their pension amounts when they go on retirement.

The fear that we would wake up one morning to the news that a Trustee or Fund Manager or Fund Custodian goes down and we lose all contributors funds is **highly** impossible.

Another good vision!

v. **Informal Sector Graciously Remembered**

One of the ills of Act 247 is that there was no bold provision(s) for the informal sector. I could imagine that due to the background of our social security activities at that period which started from our colonial masters and took root in multinational institutions in the formal sector, T. O. Asare's Committee's attention was highly fixated on social security for Ghanaians in the formal sector. Nevertheless, this may also have informed the Bediako Commission to make adequate provisions for the informal sector in Act 766.

This bold provision is made in sections 106 to 109 (and others) of Act 766, where personal pension scheme is defined as "any personal scheme to which the contributor contributes personally to a provide benefits based on a defined contribution formula in the form of pension….." A personal pension scheme, which is voluntary, applies to self-employed and individuals in the informal sector who are not covered by any retirement or pension scheme under the mandatory part of the three-tier pension scheme.

My fathers, mothers, brothers, sisters, uncles, aunties and friends who work as carpenters, cloth designers, steel benders, masons, mechanics, farmers, fishermen, commercial drivers, spare parts dealers, market women, traders and all other informal sector workers, including self-employed persons do not have any more excuse to keep themselves out of the social security arrangement.

I will encourage and plead with them to have a sense of discipline and dedication to make regular contributions to any informal sector scheme of their choice from the various Corporate Trustees in preparation for the day they will be too weak to ply their trades.

How I wish there is a system and legislation that makes these provisions mandatory!

vi. Income Replacement Ratio

The next tactical factor that had consideration in the new arrangement is our cultural behaviours as Ghanaians that influence greatly our spending during retirement life.

After a vigorous hard working life and retiring from active service, instead of the Ghanaian having a relax life including vacations, recreations, executive cruises, relaxing and reading “graphic”at home, and so on; it is rather the time they take on roles as family heads, chairpersons at occasions, arbitrators, VIPs at funerals, marriages, christenings and severally. Our mothers also not left out. These activities and roles come with its own cost to the pensioner. Rather, the Ghanaian need more money to finance these activities on retirement when the expectation is that income needs in retirement should be lower.

Normally at retirement, active or employment income ceases. The income a retiree gets is described as passive incomes, which includes pensions and redemption of other investments, if one has.

The global best standard for income replacement ratio (income adequacy) at retirement is sixty-seven (67%) percent. Happily, the Bediako Commission made such bold attempt that any worker who contributes to the mandatory schemes should achieve between a minimum income replacement ratio of sixty-five percent (65%) and seventy-nine (79%) at retirement. In addition, a worker who does additional five percent (5%) to ten percent (10%) of the voluntary schemes should also earn additional income replacement ratio between twenty percent (20%) to forty percent (40%).

In effect, the income replacement ratio envisaged by the Bediako Commission and the Consultant is between sixty-five percent (65%) and more than one-hundred-and-nineteen percent (119%).

This means that a worker who does a minimum contribution of twenty-three-point-five percent (23.50%) and a maximum contribution of twenty-eight-point-five percent (28.50%) for the minimum one hundred and eighty (180) months should earn a minimum income replacement ratio of sixty-five percent (65%) or more of the active income earned during employment.

Good vision!

vii. Contribution to the Economy

The pension reforms and advent of Act 766 has also brought along with it massive contributions and benefits to the economy of Ghana.

There is continuous mobilisation of funds from contributors to the Trustees. These funds are invested on the capital market that goes a long way to provide capital for seekers and improve liquidity of the equity market. Again, the involvement of the schemes in funds mobilized by Government of Ghana and Bank of Ghana through bonds and money market activities provides Government with funds to undertake development projects in the country.

In relation to the above is the revenue mobilisation role the Regulator and Trustees play on behalf of Ghana Revenue Authority (GRA). Well, someone said, we are enjoined by law to do so! Right, I agree! However, the contribution from the sector is enormous.

The Regulator and Trustees withhold taxes in the form of pay-as-you-earn (PAYE), tax on goods or services, VAT, management fees and dividends (when declared) and pay to GRA. Corporate Trustees also pay corporate tax on their profits.

The contribution of the pension sector to the Gross Domestic Product (GDP) of Ghana cannot be overemphasized. Currently, the estimates of the sectors contribution to the GDP of Ghana is about seven percent (7%). I prophesy today that, the pension sector would become the next "goldmine" of Ghana. This sector must be handle with great care, please!

In addition, the new pension Act has created massive employment and more business developments in the country. If you take a count of the number of Ghanaians who have been employed by NPRA, SSNIT and Corporate Trustees, then you are looking at thousands (1,000s) of direct or formal employments. Then, take a count of the ancillary jobs that has also been created; for instance, for consultants, artisans, cleaning, security, printing and advertising companies, food vendors, and so on. I am very disheartened that I do not have actual data to share with you, readers.

Conclusion

Dear readers, as I said earlier on, my perspectives above are not exhaustive. The way we have position this industry in terms of the laws promulgated gives me confidence that there is hope in the future for retirees.

My headache currently is that while a lot have been achieved in terms of social security for formal sector workers, the informal sector and self-employed who account for about eighty-five percent (85%) of Ghanaian workforce are left behind. Recent information I read said only two percent (2%) in the informal sector are on some sort of retirement savings scheme. Woefully poor!

The recent strides made by COCOBOD with cocoa formers with the Cocoa Farmers Pension Scheme is remarkable and I pray this is extended to other identifiable informal sector groups. This also calls for innovations and development of personal pension schemes by Trustees to rope in the massive informal sector workers.

I reckon that, it is very expensive to develop personal pension schemes for the informal sector. Acquisition and administrative costs, which includes systems and maintenance of informal sector scheme contributors, are very expensive. It sometimes do not make business sense to investment there.

What good would it do to the country if only fifteen percent (15%) of retirees are on pensions and the rest are not? Any answer, please!

On this note, I want to commend the NPRA for identifying the problems in the informal sector and actually focusing the **First National Pensions Awareness Week** in the last week of October 2021 to create awareness and sensitise informal sector workers on the need to contribute to a social security scheme.

I will also indulge NPRA to make concessions for Trustees who are working hard to crack the hard-nut informal sector code to ensure that their investments can be rationalized.

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