PENSION REFORM ACT 2014 AND THE FUTURE OF PENSION ADMINISTRATION IN NIGERIA

Eme, Okechukwu Innocent  
Department of Public Administration and Local Government  
University of Nigeria, Nsukka  
Uche, Okala A. & Uche, Ijeoma B.  
Department of Social Work, University of Nigeria, Nsukka

Abstract
The attention of the global economy has been drawn to Nigeria since the last 10 years following the coming on board of the Pension Reform Act 2004, with the vigour and commitment it has brought towards improving social security in Africa’s most populous black nation. This development has continued in some other countries in Africa, which have either understudied the success story of Nigeria’s Contributory Pension Scheme (CPS) or adopted similar programs to boost their citizens’ social security welfare. In the 10-year period, the pension industry in Nigeria has experienced phenomenal growth from a deficit of N2trn in the form of pension liabilities in 2004 to an accumulation of pension fund assets of up to N4.1trn by the end of 2013. The huge pool of funds that the CPS has put together is a firm backing to the economy; this is a testimony to the hard work and diligent service of the regulator, The National Pension Commission (PenCom). In realisation of the fact that there is no perfect law anywhere in the world, few months after both the Senate and House of Representatives passed the Pension Reform Bill 2014, President Goodluck Jonathan signed the bill into law recently. This piece highlights the salient issues in the new Pension Reform Act 2014 which repealed the Pension Reform Act 2004 and future of pension administration in Nigeria.  
Keywords: Pension and Pension Reforms, Pension Manager and Administrator, Contributory Pension Scheme, the National Assembly and National Pension Commission.

Introduction
Nigeria being a former colony of Britain, it’s been argued, received a pension tradition into her public sector that is entirely modelled after the British structure. Nigeria pension’s scheme had started in 1951 when the then colonial British administration established a scheme through an instrument called Pension Ordinance. It, however, had a retroactive effective from 1946 and applied only to Untied Kingdom officials posted to Nigeria. The law allowed the Governor---General to grant pensions and gratuities in accordance with the regulations, which were reviewed from time to time with the approval of the Secretary of State for Colonial Affairs in the United Kingdom government. Vesting period was fixed at 10 years of service.

Though pensions and gratuities were provided for in the legislation, they were not a right as they could be reduced or withheld altogether if it was established to the satisfaction of the Governor--General that, the officer was found guilty of negligence, irregularity or misconduct. Governmental
parastatals and agencies directly funded by the Treasury had a unified pension scheme that was virtually managed by insurance companies and many were unable to honour their pension obligations.

However, the pension schemes of the self-funded agencies were better managed. The first private sector pension scheme in Nigeria was set up for the employees of the Nigerian Breweries in 1954, which was followed by United African Company (UAC) in 1957. National Provident Fund (NPF) was the first formal pension scheme in Nigeria established in 1961 for the non-pensionable private sector employees. It was largely a savings scheme, where both employee and employer would contribute a sum of Four Naira (N4) each on monthly basis. The scheme provided for only one-off lump sum benefits.

In Nigeria other enabling legislations on the pension between 1961 and 2014 include:

The whole of the Ordinance Acts and Decree is capped up in the Decree No. 102 of 1979, which took effect from April 1, 1974. It consolidated all enactments on pensions and in corporate pension and gratuities seals devised for public officers by the Udoji Public Service Review Concision in 1974. In the same way, Pension Act No. 103 of 1979 like its counterpart Decree No. 102, of 1979, on the other hand, dealt with pension benefits, liabilities and seals devised for the agreed forces.

The main features of these pension schemes include that civil servants bore no direct responsibility, by way of payroll tax, for the provision of pension; instead pension benefits were paid through budgetary allocations to be kept in the Consolidated Revenue Fund. Thus, in most cases, the amount released usually fell short of the actual appropriation for pension payment. Another issue was that the past pension schemes suffered because politicians, eager to capture the votes of the electorates, were in the habit of offering fabulous pension increases that they either knew they were not going to pay or which may fall on regimes other than theirs. And due to the fact that the pension account was not distanced from political control, politicians usually dip hands into pension funds to cushion up temporary fiscal shocks (Ahmed, 2006).

It is worthy to note that before the enactment of the Pension Reform Act 2004, which establishes a contributory pension scheme for all employees in Nigeria, the country had operated a Defined Benefit (DB) pension scheme, which was largely unfunded and non-contributory. The Scheme led to massive accumulation of pension debt and became unsustainable largely due to lack of adequate and timely budgetary provisions, as well as increases in salaries and pensions. The administration of the scheme was very weak, inefficient, less transparent and cumbersome, leading to bureaucracy and highly liable to corrupt practices (Ahmed, 2008).

Due to lack of reliable records of pensioners, huge amount of resources on what became yearly verification exercises were expended which did not result into the timely and efficient
payment of pension. In the private sector, on the other hand, many employees were not covered by
the pension schemes put in place by their employers and many of these schemes were not funded. 
Besides, where the schemes were funded, the management of the pension funds was full of 
malpractices between the fund managers and the trustees of the pension funds. In view of the fact 
that the past pension schemes in the country were bedevilled by multifarious problems, this sad 
scenario necessitated a re-think of pension administration in Nigeria by the administration of former 
President Olusegun Obasanjo.

The Federal Government in June 2004 introduced a pension system that is sustainable and 
has the capacity to achieve the ultimate goal of providing a stable, predictable and adequate source 
of retirement income for each worker in the country. The Pension Reform Act 2004 ushered in a 
Contributory Pension Scheme (CPS) that is fully funded, privately managed and based on individual 
accounts for both the public and private sector employees in Nigeria (PENCOM, 2005). The Act 
also established the National Pension Commission (PenCom) as the sole regulator and supervisor of 
all pension matters in the country. This new pension scheme lasted for ten years. Within this era, 
pension scams, low level of coverage and non-remittances of pension deductions led to the tinkering 
of the scheme.

President Goodluck Jonathan made a bold move to provide secured future for millions of 
Nigeria workers by signing into law the amended Pension Acts. The Act was designed to bring 
more certainty to the future by ensuring that Nigeria workers have more security in retirement. As 
such, the Pension Reform Act 2014 made provisions to improve efficiency and accountability in 
pension administration in the polity by placing further emphasis on protecting pension contributions. 
This paper seeks to examine the future of pension administration in Nigeria. To achieve this 
objective the paper divided into four parts. The first section conceptualises pension. The second 
part of the paper highlights the major features of the Pension Reform Act 2014. The third segment 
addresses the future of pension administration in Nigeria with the context of the new Act. The final 
section offers recommendations and concludes the paper.

Conceptualising Pension

Robelo (2002) asserted that pension is also the method whereby a person pays into pension 
scheme a proportion of his/her earnings during his working life. The contributions provide an 
income (or pension) on retirement that is treated as earned income. This is taxed at the investors 
marginal rate of income tax. On the other hand, gratuity is a lump sum of money payable to a 
retiring officer who has served for a minimum period of time. A greater importance has been given 
to pension and gratuity by employers because of the belief that if employees’ future needs are 
guaranteed, their fears ameliorated and properly taken care of, they will be more motivated to 
contribute positively to organization’s output. Similarly, various government organizations as well 
as labour unions have emphasized the need for sound, good and workable pension scheme.

According to Adams (2005) pension is the amount paid by government or company to an 
employee after working for some specific period of time, considered too old or ill to work or have 
reached the statutory age of retirement. It is equally seen as the monthly sum paid to a retired officer 
until death because the officer has worked with the organization paying the sum. According to Ozor 
(2006), Pension consists of lump sum payment paid to an employee upon his disengagement from 
active service. According to him, payment is usually in monthly installments. He further stated that 
pension plans may be contributory on noncontributory; fixed or variable benefits; group or 
individual; insured or trustee; private or public, and single or multi-employer.

Adebayo (2006) and Ugwu (2006) stated that there are four main classifications of pensions in Nigeria. These are:
1. **Retiring Pension**: This type of pension is usually granted to a worker who is permitted to retire after completing a fixed period of quality service usually 30 to 35 years or on attaining the age of 60 to 65 years for the public service in Nigeria and 70 years of age for professors and judges.

2. **Compensatory Pension**: This type of pension is granted to a worker whose permanent post is abolished and government is unable to provide him with suitable alternative employment.

3. **Superannuating Pension**: This type of pension plan is given to a worker who retires at the prescribed age limit as stated in the condition of service.

4. **Compassionate Allowance**: This happen when a pension scheme is not admissible or allowed on account of a public servants removal from service for misconduct, insolvency or incompetence or inefficiency (Amujiri, 2009:140).

Dhameji and Dhameji (2009) tried to link commitment to motivation and opined that commitment is also tied to how well an employee is motivated. Motivation here entails the process of influencing employee’s behaviour towards the attainment of organizational goals. Motivation includes meeting the psychological, financial and emotional needs of workers, because it creates an impression in them that there is life after retirement. In the words of Sule and Ezugwu (2009), a good pension guarantees employee’s comfort and commitment to the organization during his/her active years.

A pension is a contract for a fixed sum to be paid regularly to a pensioner, typically following retirement from service. It is different from severance pay because the former is paid in regular installments while the latter is paid in one lump sum. A pension plan created by an employer for the benefit of employees is commonly referred to as an occupational or employer pension. Labour unions, the government and other organizations also fund pensions. Occupational pensions are a form of deferred compensation, usually advantageous to employee and employer for tax reasons. Many pension plan also contain an additional insurance aspect, since they often will pay benefits to survivors or disabled beneficiaries. The common use of the term pension is to describe the payments a person receives upon retirement, usually under pre-determined legal and/or contractual terms (Ayegba, James, and Odoh, 2013:97).

For our purpose pension refers to a fixed sum to be paid regularly to a person, typically following retirement from service either based on ill health, having reached the retirement age or decided to disengage from service before his/her retirement date. There are many different types of pensions, including defined benefit plans, contributory schemes, defined contribution plans, as well as several others. It is quite sad that some people still associate pension with old age. For the larger percentage of employees who have been involved in the pension contributory scheme have a better idea of what the scheme is all about and it is important for every employee in days of active service to concentrate on their pension contributions from the first day of employment. Those who have the archaic believe of pension been a scam or a retirement talk should rather sit up and learn more about the contributory scheme. The New Pension Act 2014 is an eye opener of the obvious benefits in the contributory scheme.

**Major features of the new pension reform act 2014**

The Act will see stiffer penalties intended to serve as deterrent against mismanagement or diversion of pension funds’ assets under any guise. Under the new law, operators who mismanage pension funds will be liable, upon conviction; to not less than ten years imprisonment or five of an amount equal to three times the amount so misappropriated or diverted, or both imprisonment and fine.

Ensuring greater protection of pension fund assets has been the core mandate for the National Pension Commission (PenCom) since its formation following the Pension Reform Act (PRA) 2004.
PenCom is the body tasked with regulating, supervising and ensuring effective administration of pension matters in Nigeria. Prior to the enactment of the PRA 2004 and the subsequent formation of PenCom, pension schemes in the polity had been bedeviled by problems and challenges of underfunding and vulnerable budgetary allocation. These issues have since been resolved following the introduction of the Defined Benefit Contributory Pension Scheme. Under this system, the employees contribute a minimum amount of their basic salary, housing and transport allowances. Equally; employers are obliged to contribute a pre-agreed amount on behalf of their employees. Of pension contribution from 15 percent to 18 percent of monthly emolument, while 8 percent will be contributed by employees and 10 percent by the employers. This will provide additional benefits to Workers Retirement savings accounts and thereby enhance their monthly pension benefits at retirement.

The New Pension Act expanded the coverage of the Defined Contributory Pension Scheme in the private sector entities with three employees and above, in line with the drive towards informal sector’s participation. Furthermore the new Act increased the minimum rate of pension contribution from 15 percent of monthly employment, while 8 percent will be contributed by employees and 10 percent by the employers. This will provide additional benefits to workers retirement savings accounts and thereby enhance their monthly pension benefits and retirement.

According to the new law, operators who mismanages pension fund will be liable on conviction to not less than 10 years imprisonment or fine of an amount equal to three times the amount so misappropriated or diverted or both imprisonment and fine.

Furthermore, there are currently more sophisticated mode of diversion of pension assets, such as diversion and or non disclosure of interests and commission accruable to pension fund assets under any guise. The 2014 Act also empowers PenCom subject to the flat of the Attorney General of the Federation, to institute criminal proceedings against employers who persistently fail to deduct and / or remit pension contributions of their employees within the stipulated time. This was not provided for by the 2004 Act.

With the new law in place, it is obvious that the National pension commission has not only been given enough room to improve its activities but also employers to ensure that employers who fail to remit deductions are penalized and the amount owed duly paid. Prior to the new law, the commission reported that it had recovered a total of N13.33 billion from employers who defaulted in remitting pension deductions from their employees under the new Contributory Pension Scheme (CPS). The amount includes interests calculated along with the principal sum (Goodluck, 2014).

The Future of Pension Administration under the New Act

The attention of the global economy has been drawn to Nigeria since the last 10 years following the coming on board of the Pension Reform Act 2004, with the vigour and commitment it has brought towards improving social security in Africa’s most populous black nation. This development has continued in some other countries in Africa, which have either understudied the success story of Nigeria’s Contributory Pension Scheme(CPS) or adopted similar programs to boost their citizens social security welfare.

In the 10-year period, the pension industry in Nigeria has experienced phenomenal growth from a deficit of N2trn in the form of pension liabilities in 2004 to an accumulation of pension fund assets of up to N4.1trn by the end of 2013. The huge pool of funds that the CPS has put together is a firm backing to the economy; this is a testimony to the hard work and diligent service of the regulator, The National Pension Commission (PenCom) (Nkwaezema, 2014:49). In the words of President Jonathan,

Pension is globally recognized and occupies a strategic place in national socio-economic development. It is not only a vital component of social security; it is also a
A veritable vehicle for nation building. Indeed, investment in pension has profound impact on the well-being of pensioners, society and the economy at large. As such, it is imperative that stakeholders in this life-shaping industry engage constantly in dialogue to bolster management frameworks and practices in their respective jurisdictions (Jonathan, 2014:2).

Put differently, the beauty of Nigeria’s pension system is the efficacy that has been brought to supervision and regulation, building contributor’s confidence and growing assurances for safety of the funds, a clear departure from what existed previously.

The new 2014 Pension Reform Bill which also accommodates employees of private firms in the Contributory Pension Scheme. On his the Twitter handle, Presidential Media Aide, Reuben Abati posited that the new law, which covers private organizations with at least three or more employees, prescribes a 10-year jail term for anyone who misappropriates pension funds. The Act also makes it mandatory for a refund three times the amount embezzled by the thief. According to Abati,

Operators who mismanage pension fund will be liable on conviction to not less than 10 years imprisonment or fine of an amount equal to three-times the amount so misappropriated or diverted or both imprisonment and fine. The new law repeals that of 2004, as sanctions under the old law were considered no longer sufficient deterrents against infractions of the law (Tobiloba, 2014:5).

Furthermore, the document read that there are currently more sophisticated mode of diversion of pension assets, such as diversion and/or non-disclosure of interests and commissions accruable to pension fund assets, which were not addressed by the PRA 2004. Consequently, the Pension Reform Act 2014 has created new offences and provided for stiffer penalties that will serve as deterrence against mismanagement or diversion of pension funds assets under any guise.

The 2014 Act also empowers PenCom, subject to the fiat of the Attorney General of the Federation, to institute criminal proceedings against employers who persistently fail to deduct and/or remit pension contributions of their employees within the stipulated time. This was not provided for by the 2004 Act. The Act also empowers PenCom to take proactive corrective measures on licensed operators whose situations, actions or inactions jeopardize the safety of pension assets, which was the reverse with the 2014 Act. On Penalty for defaulters Hon. Etuk said:

The Head of Service and Heads of different departments have now directed all the accounting departments to make sure that whatever is pension deduction should be treated as a sacred one and immediately transmitted to the receiving authority. The problem which PENCOM has continuously explained to us is there are people who have failed to provide genuine and credible data on themselves including their PFAs. There are some who have not even appointed PFAs and therefore once such funds are deducted they kept in accounts pending when they have the data to transfer them. We have like buffer stock funds pending in different places (Usman, 2014:1).

Explaining further he argued that:

With the enactment and passage of this Bill today and is assented to by the President, all the penalties and all the prescriptions contained in this Act would be followed strictly by the various agencies. We have penalties ranging from 10 years imprisonment. For even failing to give proper information, you have to pay N500,000 daily by any agency. And if you embezzle pension funds now you will pay not less than three times the amount of funds you embezzled. That is how serious this Bill has treated pension funds. If you embezzle N10,000 you are bound to pay a minimum of
N30,000 and in some circumstances the presiding judge has the right to make you refund and even go to prison (Tobiloba, 2014:5).

He also added that:

The previous pension law had some clauses and those who have embezzled pension fund before the passage of this new Bill would be tried with respect to the old law. But I am sure if this Bill is signed by Mr President into law and your case is settled, I am sure the presiding judge would want to refer to the current law I passing the sentence. I am sure those people who are still standing trial would be unlucky if their cases are decided after the signing of this Bill (Usman, 2014:1).

The bill also prescribed a 10 year jail term for anyone who misappropriates pension fund apart from refunding three times, the amount embezzled by him or her. It also stipulates that whoever that attempts to misappropriate the fund on conviction will be liable to the same punishment as it is prescribed for the full offence in the act. One of the clauses stipulates that all monies received as penalty by the Pension Commission shall be paid into the Pension Protection Fund which would had been established under section 82 of the Act (FGN, 2014).

The Pension Reform Act 2014 has consolidated earlier amendments to the 2004 Act, which were passed by the National Assembly. These include the Pension Reform (Amendment) Act 2011 which exempts the personnel of the Military and the Security Agencies(FGN,2011 from the CPS as well as the Universities (Miscellaneous) Provisions Act 2012, which reviewed the retirement age and benefits of University Professors. Furthermore, the 2014 Act has incorporated the Third Alteration Act, which amended the 1999 Constitution by vesting jurisdiction on pension matters in the National Industrial Court (FGN, 2014).

It also makes provisions for the repositioning of the Pension Transition Arrangement Directorate, PTAD, to ensure greater efficiency and accountability in the administration of the Defined Benefits Scheme in the federal public service such that payment of pensions would be made directly into pensioners’ bank accounts in line with the current policy of the Federal Government. It makes provisions that will enable the creation of additional permissible investment instruments to accommodate initiatives for national development, such as investment in the real sector, including infrastructure and real estate development. This is provided without compromising the paramount principle of ensuring the safety of pension fund assets.

The Act also expanded the coverage of the Contributory Pension Scheme, CPS, in the private sector organizations with three employees and above, in line with the drive towards informal sector participation. The 2014 Pension Reform Act reviewed upwards, the minimum rate of Pension Contribution from 15 per cent to 18 per cent of monthly emolument, where 8 per cent will be contributed by employee and 10 per cent by the employer. According to Abati, “This will provide additional benefits to workers’ Retirement Savings Accounts and thereby enhance their monthly pension benefits at retirement” (Tobiloba, 2014:5).

In the event of loss of jobs, the new Act reduces the waiting period for accessing benefits from six months to four months. This is done in order to identify with the yearning of contributors and labour. The Pension Reform Act 2014 makes provision that would compel an employer to open a Temporary Retirement Savings Account, TRSA, on behalf of an employee that failed to open an RSA within three months of assumption of duty. This was not required under 2004 Act.

The controversial clause of the post qualification years of experience of the director general of Pension Commission was lowered to 15 years from the previous 20 years experience. With the passage of this clause, the acting PenCom DG, Mrs Chinele Anohu-Amazu may be appointed in substantive capacity as under the former act she does not possess the 20 years experience required.
Explaining further, Chairman Senate Committee on Pensions and Establishment, Senator Alloysius Etuk said history was made with the passage of the law as it will lead to a better pension service On why the Committee decided to lower the post qualification years of the Director General, he said:

When the committee report got to the chamber on the first day of presentation of the report it the committee’s recommendation of a fit and proper person was rejected and 15 years of post qualification was adopted. So the post qualification experience for the one who would be DG of PENC0M is 15 years. In Nigeria professional pension administration would be about 10. And because we are talking about cognate experience not post qualification experience. Because if you are talking about post qualification experience what about somebody who has 30 years post qualification experience with two years cognate pension experience. Is he better than someone with 10 years cognate experience in pension administration? So having realized that we have slightly below 10 years professional pension administration experience possessed by anybody in this country, we decided if somebody must have had 5 years somewhere else and then have additional 10 years cognate experience in professional pension management. That would be a fit and proper person to serve as DG. So, the current situation as contained and accepted is 15 years post qualification experience for the post of DG PENC0M (Tobiloba, 2014:5).

Recommendations

In an effort to achieve the objectives of the new pension law in other to secure the future of pension administration in Nigeria, the underlisted recommendations are significant:

1. The grounds which the new law seeks to regain must be rewarded with enabling large environment to facilitate the creation of quality instrument through which pension assets could be best invested for infrastructure and real estate development.
2. Related to the above is that those who contravene any section of the Act should be punished by the law as stipulated in the Act with fear of favour.
3. The implementers of the Act should have enough courage and political will to interpret the sections of the law.
4. The institutions that are charged with pension administration should be strengthened by quality legislature to stream line the documentations, prompt and ease of payment to pension beneficiaries.
5. More Nigerians should embrace the new law by supporting government reform projects.

Conclusion

Certainly after 10 years of pension administration in Nigeria, the PFAs have come of age and it is hoped that the recent signing into law of the 2014 Pension Reform Bill will further concretize the statutory foundation of the pension industry and make the PFAs to attain greater heights. From the theses above one can therefore say without fear of contradiction that the administration of pension in Nigeria has no doubt been enhanced with the passage of the Pension Reform Act 2014. Not only has the Act provided a platform for a more effective, efficient and transparent administration of pensions in the Federal Public Service and the private sector, but it has also generated a pool of long term investible funds that already had positive impact on the growth of the nation’s economy.
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