

# **NATIONAL PENSIONS (AMENDMENT) BILL, 2021**

## **MEMORANDUM**

The object of the Bill is to exclude the Police Service, the Immigration Service, the Prisons Service, the Security and Intelligence Agencies and the Ghana National Fire Service from the unification of pensions.

The 2004 Presidential Commission on Pensions was established to examine existing pension schemes in Ghana and amongst others, recommend a sustainable pension scheme that would ensure retirement income security for the Ghanaian worker. The establishment of the Commission was precipitated by agitations within the labour front concerning identified inequities and disparities within the pension regime for public sector workers. Under the same public sector employer, some people were contributing to the pension scheme while others were not contributing.

The Commission also conducted an actuarial valuation of the Pensions Ordinance No. 42 of 1950 (CAP 30) pension scheme to ascertain the impact of the CAP 30 pension scheme on the Consolidated Fund and submitted the findings of the Commission as well as the recommended policy actions to Government. The actuarial assessment conducted by the 2004 Presidential Commission on Pensions proved that the CAP 30 was unsustainable, inequitable and exerting tremendous pressure on the Consolidated Fund. The 2004 Presidential Commission on Pensions therefore recommended that the CAP 30 be phased out.

The acceptance of the Government of the proposed reforms culminated in the enactment of the National Pensions Act, 2008 (Act 766) which introduced the Three-Tier Pension Scheme and established the National Pensions Regulatory Authority as the main vehicle for enforcement. The object of the National Pensions Act, 2008 (Act 766) was to provide pension benefits to ensure retirement income security for workers, ensure that every worker receives retirement and related benefits as and when due, and establish a uniform set of rules, regulations and standards for the administration of pensions and related benefits for workers in the public and private sectors.

Under the Act, the National Pensions Regulatory Authority was to unify all existing public sector pension schemes within five years from

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the commencement of the Act, that is, 1<sup>st</sup> January, 2010 to 31<sup>st</sup> December, 2014. The unification of pension schemes was therefore proposed to remove inequities and protect the country from a looming financial crisis in the very near future.

By the end of 2014, the five-year moratorium for the unification had elapsed and the multiple non-contributory unsustainable pension schemes continued to operate in an enhanced benefit form worse than the original CAP 30.

The inability of Government to unify the public sector pension schemes as provided by Act 766 has complicated matters. New entrants other than those allowed under the 1992 Constitution who were exempted from joining the non-contributory pension schemes such as CAP 30, during the transitional period (2010-2014) continue to enrol onto the multiple schemes, instead of the Three-Tier Pension Scheme. Records also show that, many of the beneficiaries of such multiple non-contributory public sector pension schemes have obtained constitutional instruments or legislative instruments that have increased pension amounts higher than the original pension arrangements under CAP 30. This was done by basing the calculation of pension benefits on consolidated salary, that is, basic salary plus job-related allowances instead of basic salary used under CAP 30. This anomaly has further widened and worsened the inequities of the public sector pension schemes.

CAP 30 is already a financial burden on Government, hence the recommendation of the 2004 Presidential Commission on Pensions to phase out CAP 30 and to unify all public sector pension schemes under Act 766. The enhanced form of non-contributory multiple public sector schemes is a huge burden on the Consolidated Fund and has proven to be financially unsustainable.

Furthermore, agitations at the labour front continue to escalate because of inequities in the public sector pensions where under the same employer some workers are contributing and others are not contributing. In some cases, those who are contributing are receiving less pension than those who are receiving pension without contributing under the enhanced

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unsustainable non-contributory multiple public sector schemes. As a result, the public sector workers who are contributing are threatening to join the non-contributory schemes if the Government fails to unify the schemes as recommended by Act 766.

Subsection (1) of section 213 of the National Pensions Act, 2008 (Act 766) provides that the following enactments and schemes shall, on the commencement of the Act, apply for a transitional period of four years and cease to be in force after that period:

- (a) the Pensions Ordinance No. 42 of 1950 (CAP 30) as amended;
- (b) Teachers Pension Ordinance 1995 as amended;
- (c) Ghana Universities Staff Superannuation Scheme;
- (d) Ghana Police Pensions Act, 1985 (P.N.D.C.L. 126);
- (e) Public Legal Officers Pensions (Amendment) Act, 1986 (P.N.D.C.L. 165);
- (f) Immigration Service Pensions Act, 1986 (P.N.D.C.L. 226);
- (g) Prisons Service Pensions Act, 1987 (P.N.D.C.L. 168);
- (h) section 34 of the Security and Intelligence agencies Act, 1996 (Act 526); and
- (i) section 27 of the National Fire Service Act, 2000 (Act 537).

Subsection (2) of section 213 of Act 766 mandates the Board of the National Pensions Regulatory Authority to ensure that pension schemes in the country are unified in accordance with Regulations made under the Act within five years after the commencement of the Act.

The Government was expected to institute measures to migrate beneficiaries of the associated public pension schemes onto the Three-Tier Pension Scheme by the expiration of the transitional period of 2014. This presupposed that by 1<sup>st</sup> January, 2015, the listed pension legislation would have ceased to operate and the Three-Tier Pension Scheme would be fully operational for all public sector workers excluding the Ghana Armed Forces. However, by 1<sup>st</sup> January, 2015 the Government had not put in place adequate measures towards the unification of public sector pensions.

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In view of the above, the Ministry of Employment and Labour Relations established a Joint Technical Committee on the Unification of Pensions to develop the required technical instruments towards unification. The Committee observed that officers in the Police Service, Immigration Service, National Fire Service, Prisons Service as well as other Security and Intelligence Agencies faced the same or similar risks as officers in the Ghana Armed Forces. The Committee also observed that officers of the affected security services should not be treated the same way as workers of other public services. The Committee noted that the commencement of the payment of lump sum benefits to the first batch of retirees under the Tier 2 of the Three-Tier Pension Scheme in 2020 revealed serious issues with employee data and data verification that may affect completion of work on the unification process.

As a result of the challenges associated with the unification process, it is necessary to amend Act 766.

*Clause 1* of the Bill amends paragraph (g) of subsection (1) of section 35 of Act 766 to exclude a representative of the Security Services who is not a member of the Ghana Armed Forces from the governing body of the Trust. The provision is substituted with a representative from the Ministry responsible for pensions not below the rank of a Director.

*Clause 2* amends section 213 of Act 766 to exclude the Police Service, the Immigration Service, the Prisons Service, the Security and Intelligence Agencies and the Ghana National Fire Service from the unification of pensions.

**HON. IGNATIUS BAFFOUR AWUAH (MP)**  
*Minister responsible for Employment and Labour Relations*

Date: 12th October, 2021.

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## **ARRANGEMENT OF SECTIONS**

### *Section*

1. Section 35 of Act 766 amended
2. Section 213 of Act 766 amended

A  
**BILL**

ENTITLED

**NATIONAL PENSIONS (AMENDMENT) ACT, 2021**

**AN ACT** to amend the National Pensions Act, 2008 (Act 766) to exclude the Police Service, the Immigration Service, the Prisons Service, the Security and Intelligence Agencies and the Ghana National Fire Service from the unification of pensions.

**PASSED** by Parliament and assented to by the President:

**Section 35 of Act 766 amended**

1. The National Pensions Act, 2008 (Act 766), referred to in this Act as the “principal enactment”, is amended in subsection (1) of section 35 by the substitution for paragraph (g), of  
“(g) one representative of the Ministry responsible for pensions not below the rank of a Director,”.

**Section 213 of Act 766 amended**

2. The principal enactment is amended in subsection (1) of section 213 by the repeal of paragraphs (d), (f), (g), (h) and (i).

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Date of *Gazette* notification: 25<sup>th</sup> October, 2021.