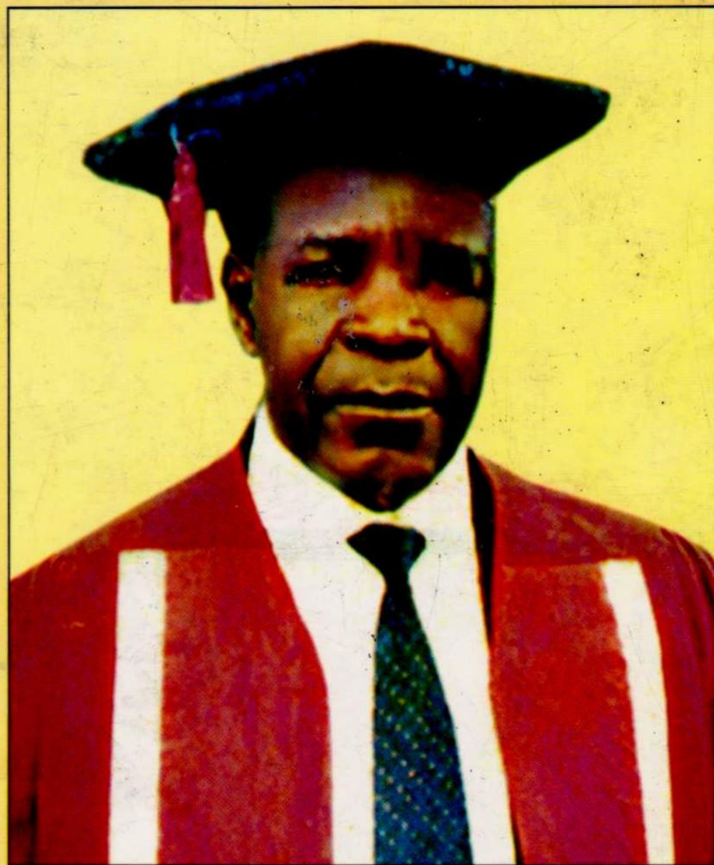

# LAW: ALL-ROUND EXCELLENCE

Essays in Honour of Professor Peter Umana Umoh, PhD (London)

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## POLEMICS OF THE NIGERIAN CONTRIBUTORY PENSION SCHEME, 2004: THE LEGAL PERSPECTIVE*


### Abstract

Numerous problems have surrounded pension schemes in the past in Nigeria[1]. These range from mismanagement, embezzlement of funds outright denial of payment to duly entitled retirees or families of dead workers, etc. Arising from these long-term un-resolved issues which had since assumed crisis dimension, the Obasanjo administration in Nigeria is credited with an epoch-making law, in a spirited attempt to correct the imbalance and protracted suffering by pensioners and retirees. This paper explores the polemics of the Nigerian Contributory Pension scheme 2004 to ascertain the prospects, promises and limits of the new law in an attempt to ascertain if it has actually met the aspirations of Nigerians.


### Introduction

One major attraction of the Civil Service has been the provision of pension upon retirement. According to Olurankinse,[2] "Pension is simply an amount set aside either by an employer or the employee or both to ensure that at retirement, there is something to fall back on as income. It ensures that at old age they will not be stranded financially.

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1 Over the years, the unresolved issues of pensions and gratuity have posed serious problems to the Nigerian society

2 F. Olurankinse, "Functional Analysis of Pension Scheme Reforms in Nigeria From 1946-2006 available at http://periodicals.faqs.org/201009/2087472371.html accessed on October 2, 2011.

Pension is a plan for the rainy days after retirement." It has also been defined as, "A fixed sum paid regularly to a person (or the person's beneficiaries) especially by an employer as a retirement benefit".[3] A pensionable job can specify a Defined Benefits Pension Scheme(DBPS) or a Contributory Pensions Scheme(CPS).A DPS usually states the entitlement of workers after minimum qualifying years of service while CPS defines pension entitlements in relation to stated contributions of the employer and the employee. The Pension Reform Act of 25th June, 2004[4] (hereafter called 'the Act') brought radical changes to the labour market in Nigeria both at the Public and Private sector and it primarily introduced the CPS. The intriguing fact is that, while the Act has been heralded for its innovations, at least when compared to previous legislations[5] in this regard, several criticisms have been leveled against the Act, both in terms of its content and implementation.[6]This paper briefly takes a panoramic view of the Pension contributory scheme of the Act. The writer examines the position of the law before the Act, key features introduced by the Act and the challenges involved in the operation of the Act. The paper argues that certain pre-requisites for the effective implementation of the scheme are not in place. Thus, the scheme is like a half-baked cake with some burnt sides while others are undone. The paper ends with a conclusion and makes informed recommendations distilled from a study of the scheme.

## Historical Development of Pension Scheme in Nigeria

3 B. A. Garner, *Blacks Law Dictionary,* 7th edn (United States: West Group, St Paul Minn,1999) p.1155.

4 Cap. P4 Laws of the Federation of Nigeria, 2004.

5 Prior to the Act there were several other Acts Governing the Pension regime in the Country such as Pensions Act,1990. See generally sections 99-100 of the2004 Act which itemizes the Acts that have been repealed and those that have been amended to conform with the Act.

6 See for example Femi Aborisade "An Assessment of Nigeria's Pension Reform Act of 2004" available at http://www.scribd.com/doc/3203384/Femi-Aborisade-An-Assessment-of-Nigerias-Pension-Reform-Act-of-2004-www-icgfm-org Accessed September 29, 2011 where he raises the innovations and criticisms about the Act.



The history of the pension scheme in Nigeria cannot be effectively traced without reference to the pension scheme of the United Kingdom.[7] The first record of a Pension Scheme in the United Kingdom was in the 1670s when there was an organized pension scheme for Royal Navy Officers, this was followed by the 1908 Old Age Pensions Act which introduced first general old age pension paying a non-contributory amount of between 10p and 25p a week, from age 70, on a means-tested basis from January 1 1909 - "Pensions Day". The first contributory scheme was under 1925 Contributory Pensions Act which set up a contributory State scheme for manual workers and others earning up to £250 a year. The pension was 50p a week from age 65.[8] From the above it can be seen that the Pension Scheme an age history in the United Kingdom. Britain made an in-road into the present territory of Nigeria since 1862 and as at 1914 the territories were amalgamated into a single political entity and called Nigeria with certain laws of the Queen being made applicable to Nigeria.[9] Regrettably, the colonial masters did not make provision for a pension scheme for the Nigerian workers until 1951.Narrating the historical development of pensions in Nigeria Olurankinse[10] had this to say: Nigeria's first ever legislation ... on pension matters was the Pension Ordinance of 1951... it took effect from 1st January, 1946.The National Provident Fund (NPF) Scheme was established in 1961 by an Act of Nigerian Parliament. The Pension Act of 1951 was replaced by the pension Decree 10 2 of 1979 with its provisions backdated to April 1974.The law regulating the pension of the armed forces was the pension Decree 203 of 1979 similar to Decree 102. The police and other government agencies' pension scheme were enacted under the

7 Nigeria was colonized by Great Britain and she literally inherited a large part of her legal system from Great Britain. See A. O. Obilade , *The Nigerian Legal System,(*Nigeria: Spectrum Books Limited,1990) pp 69-82 where the author traces the sources of Nigerian Law to English Law.

8 See: *A brief guide to the history of pensions in the United Kingdom*, at http://www.opalliance.org.uk/penhistory.htm,Accessed September28,2011.

9 A. O. Obilade, *The Nigerian Legal System, (*Nigeria:Spectrum Books Limited,1990)p.18.

10 F. Olurankinse, "Functional Analysis Of Pension Scheme Reforms in Nigeria From 1946-2006" available at http://periodicals.faqs.org/201009/2087472371.html accessed on October 2, 2011.

pension Act No. 75 of 1987. The Local Government Pension Edict culminated into the establishment of the local government staff pension Board in 1987. In 1993 The National Social Insurance Trust Fund (NSITF) scheme was established by Decree No. 73 of 1993. It replaced the defunct NPF Scheme as from 1st July, 1994 to cater for employees in the private sector of the economy; loss of employment, income in old age, invalidity or death. Technically speaking, the 1961 Pension Scheme as set out in the 1961 Act is the first legislation passed by Nigeria upon assumption of independence. The scheme covered only employees in the private sector, and the monthly contribution was 6% of basic salary, subject to a maximum of N8.00 to be contributed in equal proportion of N4.00 each by the employer and the employee. In 1993, the National Provident Fund (NPF) was converted to a limited social insurance scheme, administered by the Nigeria Social Insurance Trust Fund (NSITF). The NSITF was a defined benefits scheme and covered employees in the private sector working for organisations with a workforce of not less than 5 employees. The initial monthly contribution of members was 7.5% of basic salary, shared in the proportion of 2.5% by the employee, and 5% by the employer, but was later in 2002 revised to 10% of gross salary (comprising basic salary, transport and housing allowances) shared in the proportion of 3.5% by the employee and 6.5% by the employer.[11] After series of agitation for a reform of the pension regime in Nigeria the Pension Reform Act of 25th June 2004 was passed in Nigeria.

**Pensions Reform Act 2004: Key Features and Innovations**

The long title of the Act gives an apt focuser of the scope of the new legislation as follows: "An Act to establish a contributory Pension Scheme for employees in the public service of the Federation, Federal Capital Territory and Private Sectors in the Federal Republic of Nigeria." The Act cuts across the public and private sectors of Nigeria. Before the Act came into existence the situation of pensions was deplorable. The background to the Act is pivotal to an appreciation of

11 Basic information extracted from the Trust Pension Fund website available at http://www.trustfundpensions.com/index.php?option=com_content&view=article&id=140&Itemid=138 accessed October 2, 2011.



the reforms brought by the Act as well as any criticism. Writing on the pre-Act position Aderinokun and Adoba[12] stated as follows:

> The failures of pension schemes in the country have been attributed to poor pension fund administration, outright corruption and embezzlement of pension fund as well as inadequate build-up of funds and poor supervision. Pointing these out yesterday in his keynote address at the 2nd Biennial Pension Schemes Seminar in Abuja, Commissioner of Insurance, Dr. Oladipo Bailey also cautioned that a mass purge of the public sector would only serve to aggravate the situation. Highlighting crucial areas affecting pension schemes in the country, Bailey said even though present public service pensions are paid from the consolidated revenue fund of the federation, the Federal Government finds it difficult to grapple with the enormous amount involved. He said, "A scenario has been painted where, in the absence of reforms, the annual pension bill may in the long run, equal or exceed the annual wage bill of the active work force." As a solution, the NICON boss, however, said there "seems to be a consensus in favour of a shift from a non-contributory to a contributory pension scheme in the public service "It is believed that this would eliminate the perennial problem of shortage of funds for pension payments, and even enable government to borrow from the accumulated fund or contributions," he explained.

A scholar[13] captured the background to the Act this way:

> Prior to the Pension Reform Act 2004 (PRA), most public organizations operate a Defined Benefit (pay-as-you-go) scheme. Final Entitlement was based on length of service and terminal emoluments. Most pension schemes were designed as "resignation" scheme rather than "retirements" scheme.

12 Kunle Aderinokun and Iyefu Adoba 'Why Pension Schemes Fail in Nigeria', *This Day Online*, May 18, 2004 available at **http://www.globalaging.org/pension/world/2004/nigeria.htm,accessed October 2,2011.**

13 F. Olurankinse, "Functional Analysis Of Pension Scheme Reforms in Nigeria From 1946-2006" available at http://periodicals.faqs.org/201009/2087472371.html accessed on October 2,2011.

> Generally, pension schemes in Nigeria were largely unregulated.... These problems... prompted the federal government to constitute various committees. Chief Ajibola Ogunsola , Fola Adeola and others at different times to look at the challenges of pension schemes in Nigeria and proffer solutions to move forward ... The Fola Adeola committee report was enacted into the Pension Reform Act (PRA) ....

Before delving into the substance of the new Act, it appears pertinent to also pause and consider some issues bordering on types or patterns of pension reforms, perhaps it will give an ultimate window on how to assess the 2004 Act. Aborishade[14] discusses the issue as follows:

> Two reform styles have emerged in both EU and EUA countries. These are the 'parametric' and 'paradigmatic' styles... parametric reform is an attempt to rationalize the pension system by seeking more revenues and reducing expenditure while expanding voluntary private pension provisions. A PAYG pillar is downsized by raising the retirement age, reducing pension indexation, and curtailing sector privilege; and a development of voluntary pension fund beyond the mandatory social security system is promoted through tax advantages, organizational assistance, tripartite agreements, and other means of administrative and public information facilitation. These among other things are happening in Austria, the Czech Republic, France, Germany, Greece and Slovenia.... There is also the paradigmatic reform which is often called a 'three-pillar reform'. A paradigmatic pension reform is an attempt to move away from the monopoly of a PAYG pillar within the mandatory social security system. A paradigmatic reform is a deep change in the fundamentals of pension provision typically caused by the introduction of a mandatory funded pension pillar, along with a seriously reformed PAYG pillar and the expansion of opportunities for voluntary retirement savings...this is what three-pillar Bulgaria, Croatia, Denmark, Hungary, Latvia, the Netherlands, Poland, Sweden and the United Kingdom decided to do. Paradigmatic pattern of reform predominantly characterizes

14 Op cit, see footnote 5.



> Nigeria's pension reform, even though the changes reflect an amalgam of elements of parametric and paradigmatic changes.

With the coming into effect of the Act the key features and innovations are discernable. The most striking is the establishment of the contributory pension scheme for employees in the public and private sector.[15] The Act establishes the National Pension Commission (PenCom) as a body with perpetual succession as a regulatory body in respect of all pension matters in Nigeria.[16] The Act also sets out clear objectives which are payment of retirement benefits when due; assisting persons to make savings for old age; and a uniform set of rules and regulations for payment of pensions for the public and private sector.[17]

It is not practicable to exhaustively address all the features and innovations of the Act in this paper but the summary of some key provisions will be addressed. Other key features and innovations of the Act, as have been aptly summarized by Ibe,[18] are:

i) Mandatory coverage of all employees in organizations employing five or more persons in both the private and public sectors of the economy.[19]
ii) Employers and employees each contribute to the pension fund a minimum of seven and half percent of total emolument of the employee.[20]
iii) An employer shall maintain a life insurance policy for each employee for a minimum of three times the annual total emolument of the employee and, in the event of the death of an employee, his entitlements under the life insurance policy shall be paid into his Retirement Savings Account (RSA).

15 S.1 of the Act.
16 S.14 and 15 of the Act.
17 Ibid.S.3
18 A. C. Ibe: "The Opportunities and Challenges of the new Pension scheme for Financial Institutions in Nigeria", available at http://www.unionbankng.com/ibe.pdf Accessed October 2, 2011.
19 S.1(2)
20 S.9 of the Act.

iv) The employer and employee contributions shall be tax-deductible expenses in the calculation of income tax liabilities.[21]

v) Every employee shall maintain an RSA in his name with any pension fund administrator (PFA) of his choice into which will be paid his pension fund contributions and accrued incomes from investments thereof.

vi) PFAs, licensed by the PenCom, are the only institutions to manage pension funds as from the commencement of the Act.

vii) Pension funds and assets are to be held only by pension fund custodians (PFCs) licensed by the PenCom.

viii) The PFA chooses a PFC to which the employer's and the employee's contributions are remitted by the employer to the exclusive order of the PFA.

ix) All incomes earned from investments of pension funds are to be placed to the credit of individual RSA holders after deducting clearly defined and reasonable fees, charges, costs and expenses of transactions made by the PFA.

x) No withdrawals shall be made from the balance standing to the credit of the RSA of an employee except on his retirement or on attaining the age of 50 years (whichever is later) and such withdrawal can be for programmed monthly or quarterly withdrawal calculated on the basis of an expected life span or for the purchase of an annuity for life from a life insurance company licensed by the National Insurance Commission (NAICOM) with monthly or quarterly payments.

xi) Employees who had up to three years to retire from the commencement of the Act (July 2004) were exempted from the new pension scheme.[22]

xii) For public service employees transiting to the new pension scheme, their rights to retirement benefits shall be recognized in the form of an amount acknowledged through the issuance of a bond to be known as Federal Government Retirement Bonds (FGRB) respectively, in favour of individual employees if they have an unfunded pension scheme.

xiii) Public servants with a funded scheme converting to the new pension system shall have their RSA credited with any funds to

21 S.10.
22 S.8



which each employee is entitled and, in the event of insufficiency, the shortfall shall immediately become a debt of the relevant employer and be treated with same priority as salaries owed.

xiv) The FGRB shall be redeemed on the retirement of the employee and the proceeds added into his RSA.

xv) A Retirement Benefit Bond Redemption Funds (RBBRF) or Redemption Funds would be established by the CBN into which the Federal Government would monthly pay an amount equal to 5% of the total monthly wage bill of employees in the public service of the Federation and the Federal Capital Territory, which would be used to redeem the FGRBs.[23]

xvi) A Pension Transitional Arrangement Department or Pensions Department was established to take responsibility for paying of pensioners under the old scheme and this body would cease to exist after the death of the last pensioner or category of employee entitled to retire with pension before the commencement of the Act.[24]

xvii) Existing pension schemes in the private sector, which resemble the scheme envisaged in the Act would continue to exist; otherwise they would be modified to comply with the Act.[25]

xviii) The Act requires all pension schemes in the private sector to be fully funded.

xvix) The Nigerian Social Insurance Trust Fund (NSITF) shall cease to take contributions from workers with the commencement of the Act and shall make arrangements to transfer funds contributed and any attributable income thereof not required for the purpose of administering minimum pension as determined by PenCom, to their RSA accounts.

xx) All pension funds and assets held and managed by NSITF shall be transferred to a custodian, as from the commencement of the Act.[26]

xxi) Pension funds and assets can only be invested in certain specified instruments.[27]

23 S.29.
24 S.30.
25 S.39.
26 S.42.
27 S.72 and 73.

xxii) **PenCom shall undertake yearly inspection, examination or investigation of PFAs, PFCs, or the Pension Department to determine whether or not they are discharging their functions as set out in the Act.[28]**

**Reacting to the innovations adumbrated in the Act Olurankinse [29] observed rightly:**

> **The Pension Reform Act 2004 is an instrument whose success depends on the sincerity and commitment of all stake holders. All the stakeholders in this context means the employers, employees, the PFAs and the PFCs, the Transition Arrangement Committees, the NSITF and the PENCOM. One of the most important ways of ensuring the success of the scheme is to protect the funds subject of the scheme and make sure they are not frittered away by either fraudulent or incompetent fund administrator or as a result of bad investment decisions. Since one of the major policy considerations behind the enactment of the Act is the desire to provide for the worker in old age or during ill health and to ensure his financial wellbeing, any mismanagement of the funds will mean a failure of the scheme as target workforce will have little or nothing to cushion the economic hardship that may then arise.**

**In the light of the above, it becomes necessary to assess the reactions to the new pension regime as personified in the Act.**

## Operation and Challenges of the 2004 Scheme

**The 2004 Act has in its short lifespan been subjected to rigorous scrutiny by all the stakeholders. The scheme came in with great expectations of a total turnaround from the protagonists. As Ibe[30] observed:**

> As the new pension scheme is expected to generate N60 billion in contributions every year, it is expected that the growing and stable long-term liquidity that results would lead to the crashing of lending rates and bring yields on treasury instruments down. This effect is expected to be fuelled from both the demand and supply sides. With Pension Funds seeking long-term outlets for their funds in equities and bonds, the demand for bank loans by companies would fall as corporations increasingly rely on the capital market for funds. Also, the increased supply of funds to the market by the Pension Funds would increase liquidity in the money market and force down rates on treasury instruments. This tendency would be strengthened over time as reduced pension obligations progressively reduce the borrowing requirements and treasury operations of the Federal Government.

The question that is addressed in this section is: how has the Act fared in terms of achieving its objective or solving the pension problems in Nigeria? A most fitting place to start is the research conducted on the post 2004 Reform Act by Sule and Ezugwu[31] on the effect of the Contribution Scheme introduced by the 2004 Act on quoted firms in Nigeria, such as First Bank of Nigeria Plc, Dunlop Nigeria Plc, Mobil Oil Nigeria Plc, and Nigerian Breweries Plc, among others. Their findings were as follows:

> The model was used to check if the application of the contributory pension scheme had any impact on employee retirement benefits of quoted firms in Nigeria and this was further tested empirically to buttress the objective. The result showed that the application of the contributory pension scheme had significant impact on employee retirement benefits of quoted firms in Nigeria. Similarly, it showed that the application of the contributory pension scheme was a significant factor in enhancing the employee retirement

**28 Ibid. Some key provisions of the Act have been supplied by the writer to aid referencing.**
**29 Op cit see footnote 12.**
**30 Op.cit see footnote 17.**

31 K. O. Sule and C. I. Ezugwu, "Evaluation Of The Application Of The Contributory Pension Scheme On Employee Retirement Benefits Of Quoted Firms In Nigeria", *African Journal of Accounting, Economics, Finance and Banking Research Vol. 4. No. 4. 2009, p.57.*

> benefits of quoted firms in Nigeria though there was a variation in the application among quoted firms.[32]

Olurankinse[33] also conducted a similar study on individuals in the private and public sector after the 2004 Act and he had this to say:

> The study screened the pension scheme board and some of the workers and retirees opinions to find out how far organizations are following the laid down procedures and recommendations on pensions in Nigeria to letter by stakeholders and operators of the schemes. It was discovered that some organizations that adopted the, Defined Benefits Scheme' did not implement recommendations contain (ed) therein. Those organizations that implemented the recommendations made by the Government did that in a very care free way, thereby making the entire exercise historical. The survey also disclosed that organizations in the category of not implementing recommendations are mainly Public Sectors in all government categories. A few of the private organizations implemented the policy (Defined Benefits Scheme) righteously to letter. Responses based on oral interview conducted indicate that the resolution of weaknesses contained in Defined Benefits Scheme will lead to the need for public service to adopt a new Pension Reform Scheme (Contributory Pension Scheme). They said it is more reliable and benefiting to the employees and employers.

What is apparent from the above findings is that if the new Act is followed to the latter the problems associated with the earlier scheme[34] will be obviated. On the other hand, the 2004 Act has not had such an easy ride. There are still teething challenges associated with the operation of the new scheme[35]. Ibe[36] rightly raised the concerns, fears and uncertainties as follows:

32 Ibid.

33 Op.cit., see footnote 12 above.

34 Defined Benefits Scheme (DBS).

35 Contribution Pension Scheme (CPS).

36 Op.cit., see footnote 17.



> The new pension scheme is contributory; it de-emphasizes the lump-sum payment of gratuities, removes pension administration from the public sector and places it squarely in the hands of financial institutions. Efficient pension administration now depends on the efficiency of the Nigerian financial institutions, which calls for well-managed banks, insurance companies, pension fund administrators and custodians and an effective regulatory framework in the money and capital markets. The new pension scheme appropriately focuses on the need for adequate national savings, good investments and sustained output growth. There is, however, some doubt as to whether the public sector in Nigeria can exhibit the level of fiscal discipline over the long-run required to generate the surplus to pay off accumulated pension obligations carried over from the old scheme which would soon involve the issuing, holding and redemption of retirement bonds.
>
> As the value of pensions now depends on the returns on invested funds, there is genuine fear relating to the ability of the Nigerian capital market to generate adequate returns over time on invested funds to assure retirees decent living. This throws open the state of the various other determinants of investment yields such as the macroeconomic environment, fiscal incentives, level and quality of available infrastructure, existence of skilled and low-cost labour, existence of efficient mechanisms for resolving industrial disputes, enforcement and protection of property rights, and adequate inflows of foreign direct investment (FDI).

A vital point to note is that the data system in Nigeria, like some underdeveloped or developing countries, of employers and employees is very porous. In some developed countries social security numbers are given to all the citizens and residents[37] and these numbers are used for employment both in the public and private sector. The tax regimes of these developed countries are also tied to the social security numbers thereby making it difficult, at least in principle, for secret employments. We do not have this background in Nigeria. What is the guaranty that employers with up to five employees will comply with the scheme

37 E.g. USA. See for example the Maryland Social Security Administration website.

.While it may be easy to chase the larger and publicly quoted employers the smaller companies who may even have up to 30 employees are hardly tracked. Thus their employees are robbed of the benefit of the scheme. The level of income of most workers is so poor that they cannot even suffer a deduction of a kobo from their income, how much more 7.5 % as required by the Act. The rate of unabated corruption of managers of financial institutions and sectors where money changes hands gives a very unsafe background for a contributory system. The employees will be more consoled if a definite amount of money that was promised to them, independent of their direct contribution, is stolen than if what they saved up in their life is stolen.

## Conclusion and Recommendations

The Contributory pension scheme as introduced by the Pension Reform Act, 2004 is radical in content but its successful operation is predicated on many variables. Although the Act vests the power of overall implementation and supervision on the National Pension Commission established under it, there are too many cooks set up in the Act that it is possible that the broth may get bad without a defined person taking immediate responsibility.[38]This opens a window for shifting the goal post between the stakeholders and a beneficiary must be an old testament seer like the ancient Samuel to know where lost asses are hiding otherwise he may be shortchanged in the process without knowing it at all or where the error emanated. The overall indication as backed with empirical research referred to in this paper shows that, at least in principle, the workers are more satisfied with the offers captured in the new scheme, except that they need double assurance of the genuine implementation of the key stakeholders. Given the above scenario several interesting recommendations have been proffered by some stakeholders on the new Act and it is appropriate to highlight some of them before this writer adds his voice. Olurankinse[39] made the following recommendations:

38 A beneficiary of a pension scheme has to grapple with his employers, Pension Fund Administrators (PFAs), Pension Fund Custodians (PFC), the pensions department, the Pensions Commission, among others.

39 Op cit see footnote 12



[i] Pension Commission should provide enabling environment for smooth implementation of the new pension Act.

[ii] Pension Commission should ensure effective monitoring of all players and adequate sanction of erring operators be effected and must have a good coverage of all stakeholders

[iii] Relevant legal framework should be put in place by the federal government to ensure political economic and necessary supports for the scheme by subsequent governments,

[iv] The new scheme should be rigorously audited and monitored for any non Compliance or nonconformity.

[v] There is need for uniform pension for both public and private sectors and the scheme must be funded by both the key players.

On the other hand, Sule and Ezugwu[40] recommended that:

1. Government and the National Pension Commission must ensure effective monitoring, supervision and enforcement of the provisions of the Pension Reform Act, 2004 that introduced the new contributory pension scheme in Nigeria.
2. Firms and other organizations must ensure effective implementation, compliance and application of the elements of the new contributory pension scheme that will enhance employee retirement benefits.
3. The National Pension Commission must encourage compliance with the Act and ensure uniformity of application among firms in Nigeria.
4. The Regulatory agencies must ensure effective implementation of the penalties provided by the Act on non- compliers regardless of their status and origin.
5. Conducive and enabling environment must be created by the Government for smooth implementation, compliance and application of the scheme by firms and other players in pension administration.
6. Relevant legal framework should be put in place by the government to ensure political economy and necessary support for the scheme by subsequent government.

40 Op cit see page 58.

7. The National Pension Commission must ensure that genuine Pension Funds Administrators and Custodians are licensed to forestall any fraudulent collaborative tendencies and, to guarantee that pension funds are in safe hands.
8. Stakeholders must develop activities and strategies geared towards optimum investments that will enhance net worth and profitability of firms.
9. The Commission should intensify effort at ensuring timely remittance of benefits to the Retirement Savings Accounts (RSA) by firms, employers and employees.

The above recommendations, especially the latter are much in accord with reality and this writer adopts same and adds the following:

1. The Government of Nigeria should take immediate steps to have accurate information in a dependable databank of all the employers and employees in a way that makes it difficult for persons to employ without the government having a record. This will help the Pensions Commission to effectively monitor the implementation of the scheme and other sectors of the nation like the Board of Internal Revenue can use the data to recover taxes.
2. The minimum wage structure should be evenly enforced to ensure that people have wages that can sustain them after the statutory deductions.
3. Key infrastructures should be put in place that will increase life expectancy so that people can live to the age that they or their beneficiaries can enjoy the full benefits of the scheme.
4. The Pensions Commission must go get into aggressive orientation of the workers and employers on the nature, administration and benefits of the scheme. Indeed it should form part of the course contents in the educational institutions.

**The Legal, Social and Economic Benefits**

**Even in the face of the noted shortcomings and recommendations, the legal benefits derivable from the Pensions Reform Act 2004 are numerous. In summary, the benefits include the following:**



Enhancement of the right to life of pensioners who can now readily access their terminal benefits promptly on retirement. The stress, psychological problems and other associated health problems earlier experienced by pensioners who had to suffer for months or years before accessing their terminal benefits has been brought to the barest minimum.

Flowing from the ready access to their retirement benefits, there is increased life expectancy of retired officers who can now invest their retirement benefits in gainful economic ventures. This provides a further boost to their right to life as enshrined in major international and domestic human rights instruments – a non-derogable right.[41]

The pensioners'/retirees' right to freedom from undue torture and other degrading inhuman treatments[42] is further strengthened by the new Pensions Reform Act 2004. Prior to this recent development, pensioners were noted to spend several hours or days in long queues, waiting to sign for and collect their monthly pensions. In the process, many pensioners were reported to have collapsed and died on account of excessive torture and stress. Also, the legal impediments to obtaining letters of administration of the funds and estates of a deceased retiree/pensioner is reduced as the next of kin can now easily have all.

41 See Art 6- 1 CCPR, 1966, Sect 33 Nigerian Constitution 1999 (As Amended Art 4 ACHPR 1981