

THE NATIONAL PENSIONS AMENDMENT ACT, 2014 ACT 883 AND ITS IMPLICATIONS

WHY WAS THE NATIONAL PENSIONS ACT, 2008 (ACT 766) AMENDED?

On 31st December, 2014, Act 883, the National Pensions (Amendment) Act, passed by the Parliament of Ghana came into force. The amendment was made to achieve the following:

- To reduce the age exemption of those to whom Act 766 became applicable from its inception on 1st January, 2010 from 55 years to 50 years.
- To correct the formula for computation of pensions which was wrongly stated in Act 766.
- To introduce an **Emigration Benefit** under the 1st Tier being managed by SSNIT, to take care of non-Ghanaian members when they retire and are leaving Ghana for good. It also takes care of those who have not reached the retirement but are leaving Ghana permanently.
- To clarify some specific Sections of the Act such as the role of Pension Fund Managers and management of pension schemes in Ghana.

ACT 883 HAS AMENDED SECTION 60 OF THE PARENT ACT 766 as follows:

- A worker who is entitled to retirement benefits under a pension scheme in existence before the commencement of this Act and is aged fifty years or above, is exempt from the scheme.
- Despite the provision of subsection (1), a person who is fifty years and above and exempted from this Act may opt to join the new scheme.
- For members exempted under subsection (1), the employer and the worker shall continue to contribute as the rate before the commencement of this Act, until the worker retires.
- Where a worker is exempted under subsection (1) but has already contributed to the second-tier scheme, the contributions and returns of the worker under the second-tier scheme shall be refunded to the Trust.

Why Age Reduction from 55 Years to 50 Years?

The Parent Act 766 provided that upon commencement of the Act in January, 2010 all members of the Social Security Scheme who were 55 years and above, were to be exempted from the application of Act 766.

For those who were 55 years and above, they will continue to pay 17.5% as contribution under the old PNDCL 247 and pension benefits will also be paid under the PNDC Law 247 wholly managed by SSNIT.

From 1st January, 2010 all members of the SSNIT Scheme who were aged 54 years and below became automatic members of the Act 766.

Under Act 766, SSNIT no longer pays the 25% lump sum but pays only monthly pension. SSNIT however is required by Act 766 to determine with NPRA based on actual assessment of the equivalence of 25% earned by every member as at the commencement of the Act 766 and paid as past credit.

Under Act 766, the 2nd Tier is responsible for the payment of the Lump Sum. Many of those who were close to the exemption age of 55 years from commencement of Act 766 applied to SSNIT for their pension. Their monthly pension was computed under Act 766 and they were also entitled to past credits.

Due to the fact that some of them did not make any contributions under the 2nd Tier, and even those who made contributions have also not made enough contributions, the lump sum they were entitled to, became much lower than the 25% lump sum they would have been entitled to if they had been paid under the PNDC Law 247.

Implications of the Reduction in Age Exemption

The Amendment Act therefore placed all those aged 50 years and above under the PNDC Law 247 and have their benefits computed under PNDC Law 247 (i.e. 25% lump sum and the monthly pension).

The 50 years and above contributors exempted under the Act 766 will also continue to pay 17.5% contributions to

SSNIT, i.e. Worker 5%, an Employer 12.5% of the basic salary of the worker.

Act 766 as amended will now apply to all those who were below 50 years as at 1st January, 2010.

The Pensioners and workers who are exempt from the Act 766 by the amendment can still exercise an option to remain under Act 766.

The option created is necessary because of the differences in the minimum period to qualify under Act 766 (15 years or 180 months) and 240 months or 20 years under PNDC Law 247.

ACT 883 HAS AMENDED SECTION 77 OF ACT 766 AS FOLLOWS:

The principal enactment is amended in section 77 (a) by the substitution for “fifty-per centum” in subsection (2) of “thirty-seven and half per centum”; and (b) by the substitution for subsection (3) of “(3) Where a member works beyond the minimum contribution period the amount of pension payable shall be increased by 1.125 per centum for every additional twelve months worked up to a maximum of sixty per centum.”

Why Was The Formula For Computation Of Pension Also Amended?

There was an inadvertent error in the formula for computation of pensions as stated in the original Act 766.

The error was detected soon after Parliament passed Act 766 in December 2008. And only an Amendment Act could reverse the error.

Under PNDC Law 247, SSNIT pays both the 25% lump sum and monthly pension. For the determination of a member’s Pension Right, the minimum period of 20 years or 240 months contributions gives the member 50% pension right.

Every additional 12 months contribution gives the member 1.5% up to a maximum of 80%. The monthly accrual rate for the additional period of contribution is $1.5/12=0.125\%$

Under Act 766 the 25% lump sum and its accompanying contributions were ceded off from SSNIT to the 2nd Tier. SSNIT is therefore required to pay only the 75% residual pension. For this reason the Pension Right of a member under the 1st Tier of Act 766 cannot remain 100%, but 75%.

In other words you find 75% of the original 50% pension Right earned for the minimum period of contribution of 20 years. That is $75/100 \times 50$ which equals 37.5%.

So the amendment is to correct the formula for the computation of pensions to reflect 37.5% for 15 years or 180 months minimum contribution and 1.125% for every additional 12 months contributions up to a maximum of 60%.

The monthly accrual rate for the additional period of contribution is 0.09375%.

It is instructive to note that the wrong formula was never used to compute any contributor’s pension.

RELATIONSHIP BETWEEN COMPUTATION UNDER PNDCL 247 AND ACT 766/883 PNDCL 247 LINKAGE ACT 766/883

WHAT OTHER BENEFIT HAS BEEN INTRODUCED IN THE AMENDMENT ACT?

Act 883 introduced section 73A on payment of Benefit to a non-Ghanaian member as follows:

“A non-Ghanaian emigrant who has contributed to the SSNIT Scheme and is emigrating or leaving Ghana permanently shall be paid a lump sum benefit. Where the emigrating member qualifies for a pension, the present value of the member’s pension shall be paid as lump sum benefit. Where the emigrant member does not qualify for pension, a return of his contribution plus interest shall be paid as lump sum benefit.

Where the member does not qualify for pension, a return of contribution together with interest calculated at seventy-five per cent of the interest rate of the ninety-one day Government Treasury Bill shall be paid as lump sum benefit.” shall be paid as lump sum benefit”

QUALIFYING CONDITIONS FOR PAYMENT OF EMIGRATION BENEFIT UNDER THE NATIONAL PENSIONS (AMENDMENT) ACT, 2014 ACT 883

- A non-Ghanaian who has proved that he/she is emigrating or has emigrated permanently from Ghana should be paid the one time lump sum emigration benefit irrespective of age.
- Where the non-Ghanaian is 55 years plus but below 60 years and has contributed the 180 months or more, then a reduced pension computed at the present value for the guarantee period of 15 years should be paid as a lump sum.
- Where the non-Ghanaian is 60 years and above and has contributed for the 180 months or more, the equivalent of the full pension computed at the present value for the guarantee period of 15 years should be paid as a lump sum.
- Where the non-Ghanaian is aged 55 years or more and has contributed for a period less than the 180 months, a lump sum equivalent to return of the contribution together with interest at 75% of Government 91 Day Treasury Bill Rate should be paid as the emigration benefit.
- Where a non-Ghanaian has contributed 180 months or more but is below 55 years, the emigration benefit must be a lump sum equivalent to return of contribution plus interest at 75% of Government 91 Day Treasury Bill Rate.
- Where the non-Ghanaian is below 55 years and has also contributed below 180 months, the emigration benefit should be return of contribution plus interest at 75% Government 91 Day Treasury Bill Rate.
- Where the non-Ghanaian worked in a Hazardous establishment however, the normal rules should apply but the benefit must be lump sum at present value for the guaranteed period.
- Where the non-Ghanaian is declared invalid and the contingency of emigration is also established, a lump sum equivalent to the present value of the invalidity pension for the guarantee period could be paid.
- Where a non-Ghanaian permanently leaves Ghana but fails to claim the emigration benefit but subsequently dies, the rules that apply to survivors' benefits must apply.

Procedure For Applying For Emigration Benefit

This procedure has been published already as follows:

A non-Ghanaian shall satisfy the following conditions for processing the benefits entitled to:

- Evidence to prove that the applicant is a Non-Ghanaian such as Passport, Residential Permit, Work Permit, etc.
- Certification by the relevant High Commission, Embassy or Mission in proof of Nationality.
- Evidence that he/she is emigrating or has emigrated from Ghana PERMANENTLY.
- Complete the relevant application form.

After satisfying all the above conditions listed in (1) and (4), SSNIT shall compute and promptly pay the benefit into the designated local Bank account of the member. All non-Ghanaian members who qualify for emigration benefit shall be paid in the local currency. However if the member wants transfer of benefit in a foreign account, member will bear the cost of exchange transfer.

DEMAND FROM SSNIT OFFICIALS FOR INFORMATION TO BE COMPILED WITHIN SEVEN DAYS

Act 883 amended section 91 of Act 766 to enable employers to provide relevant information to SSNIT upon demand within seven days as follows:

“(3) In the discharge of duties under this section, where an inspector requires an employer to produce documents related to appointment, attendance, wages of workers and contributions or liability of employers to contribute to the scheme or any other relevant document, the employer shall produce the documents within seven days of receipt of the request and the inspector would take copies of or extracts from the documents”