Introduction

The economic recession has impacted negatively on labour relations; from increasing unemployment numbers, to redundancies and layoffs. Naturally arising from the latter are Employers defaulting in adhering to the mandatory monthly pension contribution requirements, and other pension benefits obligations.

The above developments have escalated the controversy over whether Pension and Gratuity Benefits remain co-existing rights of Employees under the Pension Reform Act, 2014. This is especially as there is no mention of mandatory gratuity obligations post the enactment of the repealed Pension Reform Act 2004, and the now subsisting Pension Reform Act, 2014 (?PRA 2014?) except for the exempted Public Officers who continue to enjoy Gratuity benefits.

Pension Benefits under PRA 2014

Unlike previous pension legislations before 2004, the PRA 2014 provides that a Retiree on attaining the age of 50years old, or on his or her formally retiring at the contracted retirement age, whichever is later, shall utilise the credit amount in his or her Retirement Savings Account (?RSA?) for the following purposes:-

The withdrawal of a lump sum from the Retiree?s RSA provided that the amount left after the lump sum is withdrawn shall be sufficient to procure a programmed life Annuity. This lump sum payment is similar to a **Gratuity** payment under the former pension administration system.

Programmed monthly or quarterly **Pension**

withdrawals by the Pensioner with such withdrawals calculated on the basis of the Pensioner?s expected life span.

An Annuity for life purchased on the Pensioner?s behalf, from a licensed Insurance Company, with monthly or quarterly payments to the Retiree in compliance with the Guidelines jointly issued by the National Pension Commission (?PENCOM?) and the National Insurance Commission (?NAICOM?). An Annuity is an insured periodic return or payment made to a Pensioner by an Insurer.

Gratuity Regulations under PRA 2014

In furtherance of the provision of the PRA 2014, PENCOM has published a Draft Guidelines for the administration of Gratuity Benefits (?PENCOM Gratuity Guidelines?). The PENCOM Gratuity Guidelines reiterates the statutory provision that a Retired Employee can draw a lump-sum, which as mentioned above is similar to a Gratuity, from the credit balance standing in the Retiree?s RSA.

The PENCOM Gratuity Guidelines goes further to provide that Employers are at liberty to voluntarily pay other additional severance benefits like a Gratuity, over and above the retirement benefits enumerated in sub-paragraphs A-C above.

Where Employees were or are contractually or statutorily entitled to a Gratuity benefit before or after the commencement of the PRA 2014, such

Gratuity benefit shall continue to be adhered to only after an Actuarial Valuation of the Gratuity Fund, and the transfer of such Gratuity Fund to a Pension Fund Administrator (?PFA?) for the PFAs administration as a separate Fund from the Retiree?s RSA.

Conclusion

Historically, early financial education and planning, with strict adherence to the provisions of the PRA 2014, are preferred retirement behavior when compared to the payment of a lump sum Gratuity which is a one-off payment. In the hands of a Retiree who does not have some minimum basic enlightenment in financial matters; this is because a lump sum Gratuity payment may be wasted in fraudulent and nefarious schemes by third parties acting in bad faith.

Also in a depressed economy, the agitation for Gratuity Benefits if implemented will only increase the cost of doing business, which in turn will promote further unemployment.