

PUBLIC SECTOR PENSION REFORM

JCTU and GOJ Discussions on concerns raised by Trade Unions

MEMBERSHIP BRIEF

Public Sector Pension Reform

The Media has commented on the impasse between government and public sector workers over the issue of public sector pension.

It has been stated in part that "public sector trade unions are opposed to their members contributing five percent of their salaries to a scheme that will benefit these same public sector workers when they retire.

As the umbrella body representing the majority of Public Sector workers, the Jamaica Confederation of Trade Unions (JCTU) knows that the assertion is simply not true.

The JCTU and our members have over several years been in discussion with successive administrations for Pension Reform. Despite our many concerns about the impact of the reform, no Administration that makes up the government in those negotiations can say that the Unions have approach these negotiations in bad faith. In fact the Unions and the government have reached agreement on many elements relative to the Pension reform, some of which are captured in the draft pension Bill of 2016.

One such agreement that was for further negotiations to take place prior to implementation of the Pension reform so that the parties could resolve the outstanding matters. The government has not kept faith with that agreement despite the constant urgings of the trade Unions particularly at the level of the Public Sector Monitoring Committee. The members of the JCTU were surprised that this reform with its many issues was put as a target for April 1, 2017 in the Memorandum on Standby Arrangement with the International Monetary Fund.

The Government has indicated that its liability is \$30B and growing and will become unsustainable. This makes it necessary to implement the reform now. The Public Sector labour movement voiced its concerns and this finally triggered a meeting.

At the meeting with Minister Spencer and certain technocrats of the Ministry on Monday March 6, 2017 the following items were discussed:

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CONCERNS		JAMAICA CONFEDERATION OF TRADE UNION RESPONSE & UPDATES
1	<p>Recognition of the years of service for officers who were temporary prior to the reform who then became permanent post reform.</p>	<p>Part I – Preliminary</p> <p>The interpretation of who is a pensionable officer speaks to an existing or a new public officer. There is no description as to who a public officer is for the purpose of the Bill. The implication of this is that the new legislation will not recognize the years of service of temporary persons until the law is passed and they now commence pension contributions. However the proposed legislation makes no provision for these temporary officers to contribute to their pension</p> <p>The Scope and Application should be to all public Offices but because there is no proper definition of a public officer existing or new, then this section can give rise to issues of interpretation as to its scope and application particularly to long term temporary employees that is those with over 2 years of service.</p> <p>While the issue of persons being temporarily employed in clearly vacant post for extended periods is an issue the more serious problem is that of person who are permanently temporary. Those that are employed against an established post.</p> <p>The reform should seek to prompt GoJ policy regard its treatment of these workers as they will be left without a pension notwithstanding the entitlement to compassionate gratuity which for us should be for only exceptional cases and not a normal course of action.</p> <p>UPDATE:</p> <p>The existing Regulations will be amended to allow for temporary years of service to be recognised for pension purposes</p>
2	<p>Temporary Officer's contribution to the Fund</p>	<p>The scheme proposed is silent on the treatment of temporary years of service and if left to interpretation could mean that the past service Liabilities will not be properly taken into account when these officers who are temporary are subsequently</p> <p>appointed after many years of temporary service prior to April 1, 2017 Applying for a refund after 10, 15 or 30 years of employment is not what the pension reform is all about but how do we provide old age security for those who gave public service</p> <p>UPDATE:</p> <p>The ministry of Finance to allow for temporary Officer to contribute to the Fund on the proviso that if they are never appointed they get their</p>

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CONCERNS		JAMAICA CONFEDERATION OF TRADE UNION RESPONSE & UPDATES
		Contributions with interest
3	<p>Trustees of the Fund should be the ones to decide and make recommendation to Parliament on how to use any surplus</p>	<p>The Fund is the product of the joint contributions of the employer and employees plus the investment returns of the fund less any out goings. The Trustees of the fund who are the broad representative group representing the various stakeholder should be the ones that decide and make recommendations to parliament for the surpluses in the fund. The decision should not be solely that of the Minister as prescribed in Part II Section 5 (4)</p> <p>Which says that <u><i>"The Minister may issue directions with respect to the application of any actuarial surplus of the fund"</i></u></p> <p>Please note: Section 7. Establishment of Fund - (4). This may not happen if the Minister is never satisfied that the establishment of the Fund will cause the GoJ to miss its Fiscal Targets.</p> <p>This is a clause that may result in weaknesses in the buildup of the fund and maintain the current status quo where all pension transactions are done through the consolidated fund. Proper provision must be made in GoJ Fiscal programme to ensure that the fund is established and GoJ and Public Officers contributions go directly into the Fund.</p> <p>UPDATE:</p> <p>The Ministry of Finance has indicated that they will strengthen the provisions of the Legislation to limit the Minister of Finance's discretion with any actuarial surplus of the Fund</p> <p>Ministry of Fiannce will actively seek to ensure that the Fund is establishes and GoJ matches the workers' contribution. This is estimated to be \$5Billion per annum.</p>

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4	<p>Vesting period should be 5 years instead of 10 years similar to what exists in pension arrangements for Executive agencies and other statutory bodies. This has implications for portability and will impact the withdrawal of contributions from the Fund.</p>	<p>Vesting is the minimum period in years that a person must work in order to get a pension. Most retirement schemes operated within the Public Sector have a vesting period of 5 years whilst the non-contributory scheme is at 10 years. This has implications for the portability of pensions and will impact the withdrawal of contributions from the Fund. This does not speak well for a robust pension scheme.</p> <p>Also, Section 12 (4). Where an Officer dies with less than the vested period of service, the legal representatives should be able to collect his nominal contributions plus a portion of related interest earned by such an officer during their participation in the Fund</p> <p>A pensionable officer that does not reenter the service must get a deferred pension or a refund of his contribution with interest upon attaining the normal retirement age</p> <p>This also supports the concept of portability of pension to make it mandatory that any person employed by any entity for at least 5 years will have their pension contributions transferred to their next employer. Also, this will eliminate persons having to resign from one area of the Public Sector to go work in another. It must also be borne in mind that this will increase the county's savings rate as employer's contributions are usually not transferable unless the Officer has been vested. Therefore we demand that the vesting period for Public Officers be standardized at 5 years and not 10.</p> <p>UPDATE:</p> <p>GoJ will seek to have all vesting period set to 5 years</p>
5	<p>Average of the last 5 years' pensionable emoluments</p>	<p>Low and stagnant wages will adversely impact the calculation for the pensioner. The person who retires in 2016 would not have had a salary increase for the periods 2010 to 2015 and for the decade before that would have had only 4 years of salary increase with the discontinuation of the 80% of market agreement which occasioned the first MOU. So 11 of the last 15 years would not have seen any rise in salary for Public sector workers outside of those resulting from realignment.</p> <p>UPDATE:</p> <p>GoJ's offer is to reduce this to 3 years reverting to what was the status quo before the last revision that removed the 33 1/3 as the basis of pension calculations</p>

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6	<p>Government contributions not beginning as soon as the Fund is established and also not contributing on behalf of workers when they are not being paid a salary.</p>	<p>Section 7. Establishment of Fund - (4). This may not happen if the Minister is never satisfied that the establishment of the Fund will cause the GoJ to miss its Fiscal Targets.</p> <p>This is a clause that may result in weaknesses in the buildup of the fund and maintain the current status quo where all pension transactions are done through the consolidated fund. Proper provision must be made in GoJ Fiscal programme to ensure that the fund is established and GoJ and Public Officers contributions go directly into the Fund.</p> <p>We are concerned about the application of discretion by the Minister in relation to when the Fund shall be established. Government and workers should make their contributions at the same time each month. For the scheme to be robust and viable it needs to benefit of the contributions from employees and employer and that transfer of all pension assets to the fund including the GoJ portion to cover the liabilities of the fund.</p> <p>By this act the Officers' contributions are fixed to 5% of Pensionable emoluments. The Government is proposing that its periodic contributions will be at times and in amount to be determined by the Minister. Such should not be the case as it introduces uncertainty as to whether contributions to the fund will be reasonably predictable</p> <p>A failure of Government to commit to their 5% Contribution will throw the viability of the finds into considerable doubt. This Act should prescribe a minimum percentage of 5% contribution to the Fund.</p> <p>Section 10 (2) and (3). The delinking of GoJ Contributions to the Pension Fund during periods when the Pensionable Officer is not in receipt of salary is not supported. The scheme is a defined benefit, contributory scheme and as such the GoJ shall continue to make regular contribution to the scheme even in circumstances where the pensionable officer is without full or any portion of his salary. This will ensure that he Fund is Robust and is able to sustain any shock due to inadequate contributions. Section 10 (4) should no longer be relevant if changes are made as proposed for (2) and (3) above</p> <p>UPDATE:</p> <p>GoJ will seek to establish the Fund and make contributions to match the workers' contribution.</p> <p>It has been further claimed by the unions that the contributions into the Fund are to be treated as seed money and must be kept for 10 years to allow the fund to grow and gradually replace the consolidated fund as the main source of pension payments</p>

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CONCERNS		JAMAICA CONFEDERATION OF TRADE UNION RESPONSE & UPDATES
7	Minister may not establish the Fund and make regular contributions	<p>Section 7. Establishment of Fund - (4). This may not happen if the Minister is never satisfied that the establishment of the Fund will cause the GoJ to miss its Fiscal Targets.</p> <p>This is a clause that may result in weaknesses in the buildup of the fund and maintain the current status quo where all pension transactions are done through the consolidated fund. Proper provision must be made in GoJ Fiscal programme to ensure that the fund is established and GoJ and Public Officers contributions go directly into the Fund.</p> <p>UPDATE: See Above</p>
8	1% Early retirement penalty	<p>Early Retirement - 15. – This section advocates for the imposition of a penalty on Public Officers that chose to retire early. The likely effect of this is that persons will stay longer in the service and receive a higher pension for doing so versus retiring early on a lower pension and then suffering a 1% per year early penalty for doing so. We see no economic or social rationale for this as it only creates a barrier to leave the service which can act as a demotivator resulting in lower level of productivity from those wishing to retire early. We reject the notion of the employer or the scheme advocating for a penalty rather than inducements for early retirement.</p> <p>UPDATE: GoJ has expressed a willingness to remove the 1% per annum penalty for early retirement</p>
9	Re-engagement of public officer on non-pensionable terms	<p>Section 22 of Part V – The section makes no allowance for the re-engagement of public Officers on non-pensionable terms subsequent to retirement. The law needs to be more specific in this regard. A pensionable officer on retirement is in receipt of an earned pension based on prior years' service. This should only apply if the officer is seeking to link his prior service to current and future service in another capacity</p> <p>UPDATE: GoJ reports that these arrangements are already protected in the Laws and regulations Governing the public Sector</p>

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CONCERNS		JAMAICA CONFEDERATION OF TRADE UNION RESPONSE & UPDATES
10	Contributions should be refunded with interest	<p>Reference is being made to a period of 10 years for refund of contributions. Without using the exact words we construe that this is the intended period for vesting. It is our considered opinion that the period of vesting shall be no more than 5 years and in keeping with other pension scheme arrangements that currently exist in the Public Sector.</p> <p>Further, the position contemplated by the Act is iniquitous. The pensionable Officer would have contributed to the fund over several years during which time the real value of his nominal Contributions could have been subject to significant decline due to inflation, currency devaluation etc. the Fund would have benefited from the earnings it made on his contributions. In equity, the pensionable officer should be able to collect his nominal portions plus an appropriate portion of interest or returns earned by the Fund during his participation in the Fund. In addition a deferred pension should be payable to him on the Governments contribution on his behalf. All refund of Pension Contribution must be with interest.</p> <p>UPDATE: This has been agreed with GoJ</p>
11	No indexation of pension and the halting of the restoration	<p>A dedicated and well managed scheme will improve the rate of saving by the country and reduce the burden on the Government in providing a pension for its retirees thus reducing the growing numbers of indigent poor. We are however, disheartened that there is no indexation in the proposals given the fact that if the election is taken to receive a lump sum and a reduced pension, there is no return to full pension after 12.5 years. Indexation, as proposed by the Unions, means a growth in the pension based on upward movement in wages and the Consumer Price Index and is a natural tradeoff for removing the return to full pension after 12.5 years.</p> <p>UPDATE: Government has promised to review this position and advise the Trade Union Movement of the outcome of its review.</p>
12.	Phasing in of 5% Contribution	<p>Some member Unions had expressed difficulty on behalf of their members to move to a 5% contribution in one go as this will cause financial hardship.</p> <p>UPDATE: For those workers who are not contributors to the Family Benefit scheme</p>

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CONCERNS	JAMAICA CONFEDERATION OF TRADE UNION RESPONSE & UPDATES
	the GoJ has proposed a phasing in of the contribution over a two year period. The affected member Unions are to respond to the GoJ on this proposal.