

**LEAD DEBATE ON THE BILL FOR AN ACT TO PROVIDE FOR THE
ADMINISTRATION OF PENSION FOR JUDICIAL OFFICERS OF
SUPERIOR COURTS OF RECORD IN NIGERIA, 2018.**

Sponsor: Senator Chukwuka Utazi (Enugu North)

INTRODUCTION:

The Judicial Officers (Administration of Pension) Bill 2018 was read the first time in this hallowed Chambers on the 1st day of March, 2018.

What the bill seeks to do, in the main, is to repeal and re-enact the Federal Judicial Officers (Administration of Pensions) Act, 2007 as amended in 2017.

The reason for a repeal and re-enactment, instead of mere amendment, is borne out of the fact that the new provision that is sought to be added is so fundamental that it actually changes the character of the whole law, because it contemplates a new paradigm in the administration of pensions of judicial officers in Nigeria.

For reasons of the independence of the judicial arm of Government, Section 84 of the Constitution of the Federal Republic of Nigeria provides that the remuneration, salaries and allowances payable to Judges of Superior Courts of Record in Nigeria, as enumerated in subsection (4) of the Section, shall be a charge upon the Consolidated Revenue Fund of the Federation.

Under Section 84 (7), salaries and emoluments of all Judicial Officers of Superior Courts of Record are paid from the Fund, through the National Judicial Council, NJC. Curiously, the retirement benefits of the State Judicial Officers are left to the whims and caprices of State Governors. Many of these retirees are dishearteningly subjected to untold hardship as a result of non-payment of gratuity, severance allowances and

pensions, and delayed, and at times partial, payment of pensions; in some instances running into months and years. This has created monstrous difficulties for retired judicial officers of the States.

The situation is pathetic. Imo State, for instance is owing retired Judges for upwards of one-year pensions, and before then, had forced them to accept less than what is due to them, in violation of Section 84 (3) which provides that such payments shall not be altered to their disadvantage after appointment. In Anambra State in December 2016, retired Justices of the State High Court had to sue the State Government at the National Industrial Court for non-payment of their severance gratuities, pension and arrears of pension.

These Honourable men and women, who have invested their youth and strength in the hallowed responsibility of judicial service, are left to eat crumbs at their retirement, and having lost the right to practice law after retirement by virtue of Section 292 (2) of the Constitution, the only means of subsistence for them are their retirement benefits. When this is not paid as and when due, the result is that many of them are dying out of misery and hopelessness. Which is tragic.

The continuing plight of their retired brother judges is affecting the morale and psyche of serving judicial officers who are scared stiff of what life would be in retirement, and may inadvertently prod them towards making hay while the sun shines. This portends grave implications for the integrity of the judiciary, the anti-corruption drive of the government and the dispensation of justice generally.

This is the situation which this bill seeks to address. The argument for a uniform pension scheme for judicial officers of Superior Courts of Record in Nigeria is predicated upon the fact that the National Judicial Council, being the body responsible for the collection and disbursement of the

recurrent expenditure of State Judicial Officers, including their salaries and allowances, should be the body saddled with their pension administration. There is need, therefore, for legislative intervention to have a unified and harmonized payment of pensions and retirement benefits for all judges of Superior Courts of Record, that is, Federal and State Judicial Officers.

RELEVANT LEGISLATIONS FOR GUIDANCE:

1. Third Schedule, Part 1 (I) of the Constitution of the Federal Republic, as amended, grants the NJC the powers to recommend and regulate the appointment and discipline and also to pay the salaries and emoluments of Judicial Officers of Superior Courts of Record. It is noteworthy that by paragraph 21, the powers of the Council include collecting, controlling and disbursing all moneys, capital and recurrent for the Judiciary. By Section 84 (7) of the Constitution, the recurrent expenditure of all Judicial Officers of Superior Courts of Record is charged upon the Consolidated Revenue Fund. Why the retirement benefits of retired state judicial officers are not paid from the Fund is anomalous.
2. The Revenue Mobilisation, Allocation and Fiscal Commission Act, a Federal Act, fixed the salaries and remunerations of these Judicial Officers and the said salaries and allowances are the same with those of their counterparts in the Federal Courts.
3. The right to pension of such Judicial Officers upon retirement has been provided under Section 291 (3) (c) of the Constitution and till date, no State has passed any law pursuant to the said Section specifically on the pension of its State Judicial Officers. What States rely on and apply in the payment of pensions of States Judicial Officers are the pension laws for other Public Officers of the States.

4. The pension rights of all Judges of Superior Courts of Record in the Federation are spelt out in the Pension Rights of Judges Act. It has to be emphasized that judicial officers are the only class of public office holders who have been singled out for special national legislation on their pension rights and retirement benefits, which preamble stated that it is an Act to provide for the retirement benefit of Judges. It did not specify it is only for Federal Judges.
5. It is also the peculiar position of judicial officers that prompted their exemption from the operations of the Pension Reforms Act, 2004 by the provision of its Section 8 (2).
6. The Federal Judicial Officers (Administration of Pensions Act 2007 as amended in 2017, which is the Act this bill seeks to rejig, by repealing and re-enacting it, provided for the payment of ONLY retired Federal Judicial Officers by the National Judicial Council. And it is important we keep in mind that the Council is National and not Federal Judicial Council.

INSTITUTIONAL SUPPORT FOR THE HARMONISATION OF PENSION FOR ALL JUDICIAL OFFICERS

I need to point out that the Body of Chief Judges of Nigeria support this bill. The Board of Governors of the National Judicial Institute at its meeting of July 19, 2017 approved a reform agenda for the nation's judiciary and after considering the hardships retired State Judicial Officers go through, observed, in its Report, the need for a harmonized pension fund for all Judicial Officers.

STRUCTURE OF THE BILL

The bill has seven clauses.

Clause 1 vests the responsibility for the administration and payment of pension of all judicial officers of Superiors Courts of Record on the NJC,

while also providing for transition of pension matters for this category of judicial officers from State authorities. This Clause fundamentally alters the provision in the Act.

Clauses 2-4 are the same with the Act.

Clause 5 is the Interpretation which widens the meaning of judicial officers to be in tune with Section 318 (1) of the Constitution.

Clause 6, in view of the provisions of the bill, repeals the Federal Judicial Officers (Administration of Pensions) Act, 2007 as amended in 2017, to make the implementation of this bill, when it becomes law, possible.

CONCLUSION

The importance of this bill to the nation's justice delivery system cannot be over-emphasised. The financial implications will not be any different because the money is always provided for, at any rate, in any given year. What this bill seeks to do is to shift the responsibility of administration from State governments to the NJC, for a more efficient process of pension administration for judicial officers.

I ask my colleagues to support this bill and pray that it be read the second time and referred to the relevant Committee for further legislative treatment.

I so move.