PROCLAMATION No. 908/2015

A PROCLAMATION TO PROVIDE FOR THE AMENDMENT OF PRIVATE ORGANIZATION EMPLOYEES’ PENSION PROCLAMATION

WHEREAS it has become necessary to amend the Private Organization Employees’ Pension Proclamation No. 715/2011;

NOW, THEREFORE, in accordance with Article 55 (1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

1. Short title

This Proclamation may be cited as the “Private Organization Employees’ Pension (Amendment) Proclamation No.908/2015”.

2. Amendment

The Private Organization Employees’ Pension Proclamation No. 715/2011 is hereby amended as follows:
sub-articles (1) and (7) of Article 2 of the Proclamation are deleted and replaced by the following new sub-articles (1) and (7):

“1/ ‘private organization employee’ means a salaried person employed in a private organization for not less than forty five days for definite or indefinite period of time or piece of work including managerial employees. However it does not include employees engaged in cotton collection, sugar cane cutting and such other similar works regularly repeated in the course of the year;

7/ ‘benefit’ means retirement pension, invalidity pension, incapacity pension or survivors’ pension and includes gratuity;”

the following new sub-article (13) is added after sub-article (12) of Article II of the Proclamation:

“13/ If the private organization fails to pay pension contribution collected pursuant to sub article (1) of this Article within 30 days, it shall be liable to pay interest with the bank deposit interest rate including 5% penalty for the unpaid pension contribution calculated from the first day of the month following the last day of the month in which payment of salary has been effected.”

paragraph (d) of sub-article (3) of Article 16 of the Proclamation is deleted and the existing paragraph (e) is restructured as paragraph (d);
4/ sub-article (6) of Article 16 of the Proclamation is deleted and the following new sub-articles (6) and (7) are added after sub-article (5) and the existing sub-article (7) is renumbered as sub-article (8):

"6/ Where an employee who has received retirement or invalidity gratuity pursuant to this Proclamation or Public Servants Pension Proclamation is re-employed as an employee of a private organization covered by the Private Organizations Employees Pension Scheme, his former service shall, without prejudice to sub-article (3) of Article 15 of this Proclamation, be counted along with the new service; provided that the gratuity is paid back.

7/ A person to whom reimbursement of pension contribution has been made pursuant to this Proclamation or the Public Servants Pension Proclamation before the coming into force of this Proclamation, if employed as an employee of a private organization covered by the Private Organizations Employees Pension Scheme before retirement age, his former service shall, without prejudice to sub-article (3) of Article 15 of this Proclamation, be counted along with the new service; provided, however, that the reimbursed contribution he received shall be paid back with interest calculated at bank deposit interest rate."

5/ sub-article (1) of Article 18 of the Proclamation is deleted and replaced by the following new sub-article (1):
1/ An employee of a private organization who has served for at least 10 years, if terminates his contract of employment after the coming into force of this Proclamation, he shall receive retirement pension benefit for life upon attaining retirement age as stipulated under sub-article (1) of Article 17 of this Proclamation.

6/ sub-article (2) of Article 18 of the Proclamation is deleted and the existing sub-articles (3) and (4) are renumbered as sub-articles (2) and (3), respectively, and the existing sub-article (5) is deleted and replaced by the following new sub-article (4):

4/ Where it is ascertained that an employee of a private organization who has separated from service in accordance with sub-article (1), (2) or (3) of this Article due to health problems which prevents him from engaging in any remunerated work prior to attaining the retirement age, he shall receive retirement pension for life starting with the month following such ascertainment; in case he dies, his survivors shall be paid benefits starting with the month following his death.

7/ the following new sub-articles (2) and (3) are added after sub-article (1) of Article 19 of the Proclamation and the existing sub-article (2) is renumbered as sub-article (4):

2/ Without prejudice to sub-article (1) of this Article, an employee who is employed in a private organization that
has no organizational structure or studied salary scale, or gets retired after serving for three years or lesser after his employment if paid more than 25% annual average salary increment on the salary paid a month before 3 years of his pension entitlement, the 25% annual average salary increment shall only be considered for the calculation of three years average monthly salary.

3/ For any private organization employee who has served as a member of the national defense force or as a member of police, the service shall be calculated and added in accordance with the formula set under Public Servant Pension Proclamation.”

8/ the existing provision of Article 21 of the Proclamation shall be numbered as sub-article (1) and the following new sub-article (2) is added:

“2/ If a private organization employee gets more than 25% annual average salary increment at anytime on the normal salary paid a month before a year, the 25% annual average salary increment shall only be added for the calculation of gratuity.”
9/ Article 26 of the Proclamation is deleted and replaced by the following new Article 26:

"26. Non-Reimbursement of Pension Contribution

If the employment contract of private organization employee is terminated due to any reason, the pension contribution may not be reimbursed for the private organization as well as for the private organization employee."

10/ Sub-article (2) of Article 48 of the Proclamation is deleted and the existing sub-articles (3) and (4) are renumbered as sub-articles (2) and (3);

11/ The following new sub-article (3) is added after sub-article (2) of Article 50 of the Proclamation:

"3/ Notwithstanding the provision of Article 9 of Social Health Insurance Proclamation No. 690/2010 and sub-article (1) and (2) of this Article, a contribution for social health insurance shall be deducted monthly from pension benefit and transferred to social health insurance fund. However:

(a) if the beneficiary who receives monthly pension benefit also receives salary from employment, a contribution for social health insurance shall be deducted only from his monthly salary;

(b) if the beneficiary who receives pension benefit also receives survivors' pension benefit, the contribution for social health insurance shall be deducted only from the pension benefit he gets by..."
12/ sub-article (1) of Article 51 of the Proclamation is deleted and replaced by the following new sub article (1):

"1/ If a private organization employee who receives pension benefit if employed in a private organization covered by this Proclamation and has not reached the retirement age, his new service shall be added to his previous service; provided, however, that if the retirement benefit based on the accumulated service is less than the previous one, without prejudice to his right to receive the previous pension, he may not receive any payment or contribution reimbursement for the new service he provided."

13/ sub-articles (2) and (3) are added after sub-article (1) of Article 51 of the Proclamation and the existing sub-articles (2) and (3) are renumbered as sub-articles (4) and (5):

"2/ If a private organization employee is employed and salaried from two or more private organizations, the pension contribution may be collected according to his choice from salary paid by one private organization; provided, however, that if a private organization employee is a public servant as well, the pension contribution may not be collected from a salary paid by any private organization, and the service may not be calculated for pension benefit."
If a re-employed beneficiary was entitled to a retirement pension benefit pursuant to this Proclamation or Public Servant Pension Proclamation before the retirement age of 60, the new service that has been rendered by him shall be added to his pension benefit with the previous service in accordance with sub-article (1) of this Article only when he attains the retirement age of 60; provided, however, that if it is ascertained by a medical board that the employee of a private organization is incapable of fulfilling service due to employment injury or health problems and separated from service, his pension shall be re-considered starting from the next month following his separation from service.

3. Effective Date

This Proclamation shall enter into force as of the 8th day of July, 2015.

Done at Addis Ababa, this 10th day of July, 2015.

MULATU TESHOME (DR.)

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA