

Major Additions to Private Organization Employees Pension Law

Description



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Ethiopia has enacted as of March 18,2022 new Private Organization Employees' Pension Proclamation No 1268/2022(the current Proclamation). This new proclamation has repealed the Private Organization Employees' Pension Proclamation No 715/2011 and its amendment Proclamation

No 908/2015(together referred to as previous proclamations). The major additions to the new proclamation shall be the focus of this article.

Private organization Employee

In the previous proclamations, employees engaged in cotton collection, sugar cane cutting and such other similar works were explicitly excluded from being covered by the proclamation. Now in the current pension proclamation, the exclusion of these types of employees has not been indicated. Thus the definition on who is a private organization employee shall make the distinction as to who is covered and who is not. Private organization employee is defined as *'any private organization employee who has been a salaried person employed in a private organization for not less than 45 days for definite or indefinite period of time or piece of work including managerial employees'*.

From Agency to Administration

The authority that administers the private organizations employees pension and social security was organized under an Agency. Now in the current proclamation the authority is changed from Agency to Administration. This is in line with Article 12 of the Proclamation 1263/2021 that deals with the Definition of Powers and Duties of the Executive Organs. Hence the government administrative body that is entrusted to administer the private organization employees pension and social security is the Private Organization Employees Social Security Fund Administration.

No Option for Provident Fund

The previous proclamation allows employees to choose from pension schemes or the provident fund or agree to be covered by the pension proclamation. Now the new and current proclamation states that *'all employees who have provident fund or any other scheme called by any other name before the coming into force of this proclamation shall be covered by this proclamation'*. As a result the only scheme for private organization employees is the pension scheme provided in the new proclamation and no other. The Administration may issue details by a directive.

Non-applicability to Sole Owners

The current and previous proclamations are applicable to employees of private organizations who are Ethiopian nationals. Nonetheless, domestic workers and employees of governmental international organizations and foreign diplomatic missions were excluded from the current and the previous pension proclamations. However the current proclamation added one more exclusion i.e. sole owner's managers or employees or sole owner's. Thus the private organization employees pension proclamation is not applicable to sole owners' managers or employees or sole owners.

Pension Contribution Collection

The previous proclamation indicates the collection of the pension to be done by bodies to be delegated by the Agency on Article 11(4) of the proclamation. However the current proclamation specified the delegated body. The government body to collect pension contributions is the for the federal government the Federal Ministry of Revenue and for regions the Regions Revenue Authority or any authority legally established for the collection of revenue and tax.

Collection of Pension Contribution

Specific power to sell through tender the property of the private organization who failed to pay the pension contribution has been modified to be handled by a directive to be issued by the Administration in the current proclamation.

Priority

Priority over any debt of pension contribution payment is elaborated by the current proclamation as having priority because it emanates from law, agreement or court decision or over any payment of debt.

Liability of General Manager

The new pension proclamation added the liability of the General Manager of a private organization which has been dissolved, divided or amalgamated for unpaid arrears pension contribution.

Investment of Pension Fund

Specific mentioning of investment of pension funds in treasury bonds and other profitable and reliable investments was indicated in the previous proclamation. Now the current proclamation indicates investments as 'profitable and reliable areas' only. The new proclamation leaves the specific wording of treasury bonds. Who decides on the investment has been previously left to be determined by the directive to be issued by the Ministry of Finance and Economic Development. However, now the current proclamation assigned the task to the Administration Management Board.

Retirement Age

The retirement age of an employee of a private organization shall be **60 years** based on the date of birth registered when he was employed for the first time. The retirement age of 60 has been there in Proclamation No 715/2011 and it is copied in the new proclamation as well.

Service beyond Retirement Age

In calculating the period of service, the period of service beyond retirement age lawfully retained in service would have been considered in the previous proclamation. Now in the current proclamation, lawfully being retained in service beyond retirement age is left out. In other words service beyond retirement age would not be considered as a period of service.

Assessment of Employment Injury by Medical Board

Assessment of employment injury by one medical board could be sent to be evaluated by another medical board. The previous proclamation was silent on what to do if there exists conflicting assessment results. The current proclamation gave an indication of a solution to the gap. The Administration is given the task of determining the acceptance of the medical board assessment.

Pension Adjustment

Pension adjustment has been reduced to 3(three) years by the current proclamation from every 5(five)

years by the previous proclamation.

Period of Limitation

In the current proclamation, any claim for payment of arrears of pension benefit or payment of gratuity is barred by a 5(five) year period of limitation. The period of limitation used to be 3(three) years in the repealed proclamation.

Responsibility to Digitalize

The Administration is tasked with a new responsibility to collect and digitalize data.

Criminal Liability

The Previous proclamation contains a penalty for unwillingness to submit evidentiary documents and obstruction to result in punishment with rigorous imprisonment not exceeding 5 years and a fine not exceeding Birr 10,000. Now the current proclamation deleted the 5 years imprisonment and Birr 10,000 penalty and left the penalty to be determined by the relevant provisions of the criminal law of Ethiopia.

To sum up, the new and current private organization pension proclamation has incorporated few additions with the aim of strengthening and improving the pension scheme and pension fund to the benefit of citizens.

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