PROCLAMATION No. ……/2021

A PROCLAMATION TO PROVIDE FOR PUBLIC SERVANTS' PENSION

WHEREAS it is part of the country's social protection policy to expand social insurance system and reach citizens step by step;

WHEREAS the strengthening and sustainability of the system greatly contributes to social justice, industrial peace, poverty reduction, productivity and development;

WHEREAS it has been found necessary to strengthen, to the extent circumstances allow, the public service's pension scheme by revising and consolidating the existing laws to create suitable condition for implimentation process;

WHEREAS it has been necessary to ensure the sustainability and reliability of the public servant's pension fund by investment requires trancparent governance system;

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

PART ONE
GENERAL

1. Short Title

This Proclamation may be cited as the "Public Servants' Pension Proclamation No. ---/2021".

2. Definitions

In this Proclamation, unless the context otherwise requires:

1/ "public servant" means monthly salaried person employed permanently or for definite period or piece of work in a public office, public enterprise or project or program carried out by government, and includes government appointees, members of parliament, members of the defense force and the police;

2. "Public service" means service redered by public servants in public offices stipulated under sub article (6) of this Article,

3/ “senior government official” means minister, minister of state, deputy minister or any government official having an equivalent rank;

4/ “member of parliament” means speaker, deputy speaker and includes any member of the House of Peoples’ Representatives of the Federal Democratic Republic of Ethiopia;

5/ “speaker” or “deputy speaker” means the speaker or deputy speaker of the House of Peoples’ Representatives or the House of the Federation;

6/ “public office” means any government office, institution or organ wholly or partly run by government budget, and includes public institutions and enterprises run by their own income;

7/ “government” mean the federal government and includes the regional states of the Federal Democratic Republic of Ethiopia;

8/ “region” means any region referred to in Article 47 of the Constitution of the Federal Democratic Republic of Ethiopia and includes the Addis Ababa and Diredawa city administrations;

9/ “member of the defense force” means a person permanently employed in the National Defense Force to render military service in accordance with legislations regulating the administration of the Defense Force;

10/ “member of the police” means a person permanently employed and renders service in federal or regional police including prison police in accordance with legislations governing the administration of police;

11/ “civil service” mean service rendered by public servants other than members of the Defense Force and the Police;

12/ “military service” means service rendered by members of the National Defense Force;

13/ “police service” means service rendered by members of the Police;

14/ “enterprise” include public enterprises and enterprises in which the government’s capital share is not less than 50%;

15/ “benefit” means retirement pension, invalidity pension, incapacity pension or survivors pension and includes gratuity;

16/ “salary” means the monthly salary received by a public servant, for services rendered during regular working hours, without the deduction of any amounts in respect of income tax or any other matter;

17/ “beneficiary” means a public servant or his survivor who receives benefits or fulfils the conditions for receiving benefits in accordance with this Proclamation;

18/ “survivor” include persons referred to under Article 40(3) of this Proclamation;

19/ “Public Servants Pension Scheme” means a system established to pay benefits and provide services to public servants covered under this Proclamation;

20/ “pensions funds” means funds established for the purposes of collecting pension contributions and effecting payments of benefits pursuant to this Proclamation;

21/ “definite period or piece of work' means a work in a public office, public enterprises or project or program undertaken by government on the bases of temporary or piece of work employment for not less than 45 days and it does not include a work to be performed by daily laborer, a work for cotton collection, sugar cane cutting and such other similar works regularly repeated in the course of the year;

22/ “relevant government body” means a body legally authorized to issue national identification number,

23/ “Administration” means the Public Servants Social Security Fund Administration to be issued by Regulation of Council of Ministers;

24/ “supervisory authority “means national bank of Ethiopia;

24“person” means any natural or juridical person;

25/ any expression in the masculine gender includes the feminine.

3. Scope of Application

1/ Without prejudice to the appropriate provisions of Proclamation No. 270/2002 that provide pension coverage to foreign nationals of Ethiopian

origin, and treaties to which the Country is a party, this Proclamation shall be applicable to public servants who are Ethiopian nationals

2/ Without prejudice to the provision of Article 52(6) of this Proclamation, the provision of Article 19(5), Article 20(2), Article 21(2), Article 22(3) and Article 23(2) of this Proclamation shall not be applicable with respect to senior government officials and members of parliament who have been deprived of their rights and benefits pursuant to Article 54 of Proclamation No. 653/2009.

PART TWO

SOCIAL SECURITY REGISTRATION AND IDENTIFICATION NUMBER

4. Registration

1/ Any public office shall, for the purpose of registration, submit to the Administration copies of its establishment legislation, personal data of the public servant taken at the time of first employment, letter of employment issued to the public servant and other data determined by the Administration.

2/ The time limit for submission of data in accordance with sub-article (1) of this Article shall:

a) in the case of existing public offices and public servants, be determined by the Fund;

b) in the case of public offices established, or public servants employed after the effective date of this Proclamation, 60 days from the date of establishment or employment.

5. Social Security Identification Number

1/ Any public office or public servant shall, upon submission of completed data for registration, be assigned with social security identification number provided, however, that the public servant if any has been given the national identification number by the concerned government body, it may be taken as social security identification number.

2/ Any public servant, when transferred to another public office or employed by another public office or any private organization covered by

pension scheme, shall notify his identification number to such office or organization.

6. Notification of Changes in Entries of Registration

1/ Any public office shall, when any change occurs in the entries of its social security registration or that of its public servant, notify such change to the Fund, with supporting evidence, within 60 days of the occurrence of such change.

2/ Every public servant shall notify, with supporting evidence, to the public office that he is working for, any change regarding his family status.

3/ Any beneficiary who is receiving benefits shall notify, with supporting evidence, to the Fund any change in the entries of social security registration within 60 days of the occurrence of such change.

4/ Any notification of change in the entry of social security registration relating to a public office, public servant or beneficiary, shall indicate the corresponding social security identification number.

5/ Any public office to which public servants are transferred following the dissolution, division or merger of another public office shall notify same, in writing, to the Fund within 60 days of the takeover.

6/ Where a public enterprise is privatized, the government organ in charge of effecting the transaction shall notify same to the Fund within 60 days.

7/ Notwithstanding Article 4(1) of this Proclamation and sub-articles (1) to (3) of this Article any contrary evidence/ document brought to amend or change date of birth (age) registered at initial employment shall not be accepted.

7. Effects of Failure to Submit Data for Registration effect

1/ The concerned officer of a public office who fails to organize, keep and timely submit to the Fund data for registration as required under this Part shall be punishable in accordance with Article 61 of this Proclamation.

2/ Where a public servant or beneficiary fails to timely submit data relating to changes in entries of registration as required under this Part, his survivors' entitlements to benefits shall be based on the data that have already been organized and kept by the Fund.

PART THREE
PENSION SCHEME, FUNDS AND CONTRIBUTIONS

8. Establishment of Public Servants Pension Scheme

The Public Servants Pension Scheme is hereby established.

9. Establishment of Pension Funds

The following public servants pension funds are hereby established:

1/ the Civil Service Pension Fund;

2/ the Military and Police Service Pension Fund.

10. Contributions to the Civil Service Pension Fund

The contributions payable to the Civil Service Pension Fund shall be based on the following salary of the public servants'

1/ by the public office, 11%;

2/ by the public servant, 7%.

11. Contributions to the Military and Police Service Pension Fund

The contributions payable to the Military and Police Service Pension Fund shall be based on the following salary of the public servants',

1/ by the public office, 33%;

2/ by the public servant, 7%.

12. Payment of Pension Contributions

1/ Every public office shall deduct contributions of public servants from their salaries and pay the amount, together with its own contributions, to the pension fund monthly.

2/ The contributions referred to in sub-article (1) of this Article shall be paid to the pension fund within 30 days from the last day of the month in which payment of salary has been effected.

3/ Where a public office fails to deduct contributions of public servants from their salaries, it shall be liable for payment of same.

4/ Notwithstanding the provisions of sub-article (1) of this Article, contributions of federal and regional public offices fully or partly run by government allocated budgets and their public servants shall be collected and paid to the pension fund with in the period specified under sub-article (2) of this Article as the case may be, by the Ministry of Finance or the regional Finance and Economic Development (finance) bureaus.

5/ Contributions of public offices run by their own income (non-budgetary) shall be collected and paid to the pension fund within the period specified under sub-article (2) of this Article by the Fund or the bodies to be delegated by the Fund.

6/ The Fund shall have the power to supervise, inspect (audit) and verify the proper computations of contributions and take legal action against public office who fails to pay contributions to be collected in accordance with this Article.

7/ The Ministry of Finance shall, upon being notified by the Fund the default of regional government offices in the timely payment of contributions and the amounts thereof, deduct the arrear contributions from their budgetary subsidies allocated by the federal government and pay same to pension fund.

8/ Where a public office fails to pay contributions for a period of more than three months, the Fund or the delegated body shall have the power to cause the deduction of the arrear contributions from the budget allocated to it by the government or from its bank account.

9/ Any bank or financial institution shall, when requested by the Fund or the delegated body, has the obligation to deduct, without any precondition, the amount of contributions to be collected pursuant to sub-article (1) of this Article from the account of the public office and pay to the Fund or the delegated body.

10/ In accordance with sub article (9) of this article, any bank or financial institution will be accountable to the amount of money withdrawn by public office after receving written order from the fund or delegated body to deduct the contribution debt from the public office account.

11/ Any public office which pays salary to public servants covered by pension scheme shall have the obligation to notify in writing to the Fund the branch of the bank and account number in which it has deposited money, and any change of address of the bank or account number within 15 days of the occurrence of such change.

12/ The Fund or the delegated body shall have the power to sell, through tender, the property of a public office for the purpose of collecting arrear contributions that could not be collected pursuant to sub-article (9) of this article following the directive to be issued by the Fund.

13/ For the purpose of compensating effects of benefits granted pursuant to sub-article (7) of Article 19 of this Proclamation to pension fund, the public office shall pay in advance the monthly contributions calculated for the remaining period that the public servant has to go through before he attains the retirement age.

14/ For the purpose of compensating effect of benefits granted to an outgoing senior government official or member of parliament to pension fund, the Ministry of Finance shall pay in advance the monthly contributions calculated for the remaining period that the official or member has to go through before he attaines the retirement age.

15/ If the public enterprise or self-financing public office fails to pay pension contribution collected pursuant to sub article (2) of this Article within 30 days, it shall be liable to pay interest with the bank deposit interest rate and in addition 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,

16/ It is prohibited to deduct from pension contributions for payment of service charges, money transfer charges or debt or for any other purpose.

17/ The Fund may delegate activities in relation to the collection and enforcement of pension contributions to other bodies.

18/ The payment of pension contributions shall have priority over any debt.

13. Administration of Pension Funds

The pension funds established under Article 9 of this Proclamation shall be administered by the Public Sevants Social Security Fund.

14. Utilization of Pension Funds

1/ The pension funds shall be utilized only for:

a) Effecting payments of benefits stipulated in this Proclamation;

b) Profitable and reliable investments to be decided by the fund; and

c) covering the operational expenses of the Fund.

2/ Pension funds may not be attached or secured in respect of any debt.

15. Actuarial Analysis and Evaluation

The Public Servant Pension Scheme shall be evaluated by actuaries every five years.

PART FOUR

PERIOD OF SERVICE AND RETIREMENT AGE

16. Commencement of Period of Service

1/ The period of service of a public servant shall begin with the date of his appointment or assignment.

2/ Where a public servant working in an enterprise transferred to government ownership has a provident fund which fully covers the contribution due in accordance with the provisions of this Proclamation, the fund shall be paid to the pension fund and his service since the start of the contribution shall be counted; provided, however, that if he has no provident fund, his service shall begin to count as of the date of such transfer.

3/ The service that a public servant has rendered in a private organization covered by the Private Organizations Employees Pension Scheme shall be counted as of the date of starting payment of contribution in accordance with the Scheme. For the purpose of counting the service, the organ which administers the Private Organizations Employees Pension Fund shall transfer, within one month, the personal records of the public servant to the fund.

4 / Subject to the provisions of sub-article (3) of this Article, the issue of transfer of pension contributions from the Public Service Pension Fund to the Private Sector Employees 'Pension Fund and the transfer of funds from the Private Sector Employees' Pension Fund to the Public Service Pension Fund shall be determind based on the directive issued by the National bank.

17. Calculation of Period of Service

1/ Period of service shall be calculated in complete years, months and days.

2/ Without prejudice to sub-article (2) and (3) of Article 16 of this Proclamation, the period of service of a public servant shall include all services rendered to different public offices and private organizations covered by the Private Organizations Employees Pension Scheme.

3/ For any public servant the following shall be counted as period of service:

a) period of service beyond retirement age, if lawfully retained in service;

b) period of service spent after reengagement upon a government decision subsequent to retirement due to age;

c) period of service which was interrupted due to any cause without interruption of payment of salary;

d) period of service spent in any public body or trade union as salaried fulltime elected member;

e) period of service rendered in a public office as a temporary worker;

f) period of service spent, upon a government order, in an enterprise where the government capital share is less 50%;

g) period of service spent, upon a government decision, in an international organization;

h) Notwithstanding sub-article (4) (a) of this Article, service rendered as member of parliament beyond retirement age;

4/ For any public servant the following shall not be counted as period of service:

a) unless lawfully retained in service, the service he renders as of the first day of the month following that in which he attains retirement age;

b) without prejudice to any treaty to which Ethiopia is a party and sub-article 3(e) of this Article, the service rendered by a naturalized Ethiopian in any public office or private organization covered by pension scheme before his naturalization.

5/ Period of service referred to under sub-article (3) from paragraph (c) to (h) of this Article shall be counted as period of service only where the public servant or elected member pays the contributions by himself including that of the employer or causes the employer to effect payments of same.

6/ Where a person who has received gratuity payment pursuant to this Proclamation or the Private Organization Employees' Pension Proclamation is re-employed or assigned as a public servant, his former service shall, without prejudice to sub article (3) of Article 16 of this Proclamation, be counted along with the new service; provided, however, that the gratuity he received shall be paid back.

7/ A person to whom prior to July 08, 2015 reimbursement of pension contribution has been made pursuant to this Proclamation or the Private Organization Employees' Pension Proclamation, before the coming in to force of this amendment Proclamation, is re-employed or assigned as a public servant, his former service shall, without prejudice to Article 16(3)

of this Proclamation, be counted along with the new service; provided, however, that the reimbursed contribution shall be paid back with interest calculated at bank deposit interest rate.

8/ On the basis of studies submitted to it by the Fund, the Council of Ministers may decide that period of service spent on hazardous jobs or on jobs involving risks to health and life be counted up to twice the actual period of service.

18. Retirement Age

1/ The retirement age of a public servant shall, based on the date of birth registered when he was employed for the first time, be:

a) for a member of the defense force, the age determined by the legislation regulating to the administration of the defense force;

b) for a member of the police, the age determined by the legislation regulating the administration of the police;

c) for other public servant, 60 years.

2/ On the basis of studies submitted to it by the Fund, the Council of Ministers may determine retirement age higher than the age provided for under sub-article (1) of this Article with respect to professions that may deserve special consideration.

3/ On the basis of studies submitted to it by the Fund, the Council of Ministers may determine retirement age lesser than the age provided for under sub-article (1) of this Article for public servants working on hazardous jobs or on jobs involving risks to health and life.

PART FIVE

RETIREMENT PENSION AND GRATUITY

19. Retirement Pension

1/ A public servant who has completed at least 10 years of service and retires upon attaining retirement age shall receive retirement pension for life.

2/ A public servant who has completed at least 10 years and separates from the service by voluntary resignation or for any other cause other than

those provided for in this Proclamation, commencing from the date of July 08, 2015 coming into force of this Proclamation, shall receive retirement pension for life upon attaining retirement age pursuant to sub-article (1) of Article 18 of this Proclamation.

3/ A public servant who separates from the service after completing at least 25 years of service shall receive retirement pension for life beginning with five years prior to retirement age.

4/ Without prejudice to the entitlement of pension right upon attainment of retirement age, the provisions of sub-article (3) of this Article shall not be applicable to a public servant who separates from the service on grounds of disciplinary measures.

5/ Notwithstanding the provisions of sub-article (1) of this Article, a senior government official or a member of parliament, who has served at least one full term and has attained the age of 50 years when he leaves office shall receive retirement pension for life.

6/ Where it is ascertained that a public servant who has separated from service in accordance with sub-article (2) or (3) or (4) of this Article becomes incapable of fulfilling the medical conditions of service due to health problems 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/ Notwithstanding the provisions of sub-article (1) of this Article, a public servant who separates from the service due to the fact that the public office has ceased to exist, due to reduction of work force or for reasons relating to privatization, and his service and age are not less than 25 years and 50 years, respectively, shall, upon the decision of the Council of Ministers, receive retirement pension for life.

20. Amount of Retirement Pension

1/ The retirement pension of any public servant who has completed 10 years of service shall be 30% of his average salary for the last three years

preceding retirement and shall be increased, for each year of service beyond 10 years:

a) by 1.25% for a public servant other than member of the defense force or the police;

b) by 1.65% for a member of the defense force or the police.

2/ The retirement pension of a senior government official or a member of parliament who has served at least one full term shall amount to 15% of his average salary for the last three years preceding retirement and shall be increased by 1.125% for each year of service beyond five years.

3/ The retirement pension to be paid pursuant to sub-article (1) or (2) of this Article may not exceed 70% of the average salary of the public servant, senior government official or member of parliament for the last three years of service preceding retirement.

4 / Notwithstanding the general statement referred to in sub-article 3 of this Article, the minimum monthly pension and adjustment allowance may be exceeded when adjusted by the Administration on the basis of current living conditions.

5/ Notwithstanding the provisions of sub articles (1) and (2) of this Article, the releavant provision of Private Organization Emplyees Pension Proclamation regarding concidering private organizatins' employee who is paid a monthly salary which is above 25% annual average salary prior to three years of the employee's retirement shall be similarly applicable.

21. Retirement Gratuity

1/ A public servant who has not completed 10 years of service and retires on attaining retirement age shall receive gratuity.

2/ An outgoing senior government official or member of parliament who has served for less than one full term separates from service on attaining 50 or above years of age shall receive gratuity.

22. Amount of Retirement Gratuity

The gratuity payable in accordance with Article 21 of this Proclamation shall be:

1/ for a public servant other than member of the defense force or the police, his salary for 1.25 month preceding retirement multiplied by the number of years of service;

2/ for a member of the defense force or the police, his salary for 1.65 month preceding retirement multiplied by the number of years of service;

3/ for a senior government official or a member of parliament, his salary for 1.125 month preceding separation from service multiplied by the number of years of service.

PART SIX
INVALIDITY PENSION AND GRATUITY

23. Invalidity Pension

1/ A public servant who has completed at least 10 years of service and separates from service due to health problems preventing him from engaging in any remunerated work shall receive invalidity pension for life.

2/ A senior government official or member of parliament who has served at least one term and separates from service due to health problems shall receive invalidity pension for life.

24. Amount of Invalidity Pension

The invalidity pension payable in accordance with Article 23 of this Proclamation shall be calculated as provided under Article 20 hereof.

25. Invalidity Gratuity

1/ A public servant who has not completed 10 years of service and separates from service on becoming unfit for service due to health problems shall receive invalidity gratuity.

2/ A senior government official or member of parliament who has served for less than one full term and separates from service due to health problems shall receive invalidity gratuity.

26. Amount of Invalidity Gratuity

The gratuity payable in accordance with Article 25 of this Proclamation shall be calculated as provided under Article 22 hereof.

27. Non-Reimbursement of Pension Contributions

If the employment contract of a public servant is terminated due to any reason; the pension contribution may not be reimbursed.

PART SEVEN

EMPLOYMENT INJURY PENSION AND GRATUITY

28. Definitions

1/ “employment injury” means occupational accident or occupational disease.

2/ “occupational accident” means any organic injury or functional disorder suddenly sustained by a public servant during or in connection with the performance of his work and includes:

a) any injury sustained by a public servant while carrying out orders given by a competent authority outside of his regular work or working place or working hours;

b) any injury sustained by a public servant during or outside of working hours while attempting to protect the public office from accident or destruction irrespective of an order given by a competent authority;

c) any injury sustained by a public servant while he is proceeding to or from his place of work in a transport service vehicle provided by the public office which is available for the common use of its employees or in a vehicle hired and expressly destined by the public office for the same purpose;

d) any injury sustained by a public servant before or after his work or during any interruption of work, if he is present in the work place or the premises of the public office by reason of his duties in connection with his work;

e) any injury sustained by a public servant as a result of an action of the public office or a third person during the performance of his work.

3/ “occupational disease” means any pathological condition of a public servant which arises as a consequence of being exposed to the agent that cause the disease for a certain period prior to the date in which the disease became evident due to the kind of work he performs or because of the surrounding in which he works; provided, however, that it does not include endemic or epidemic diseases which are prevalent and contracted in the area where the work is done.

4/ “regular work” means the work performed by a public servant pursuant to his assignments or contract of employment.

5/ “regular place of work” means a place where a public servant performs his duties for a definite or an indefinite duration.

29. Self Inflicted Injury

The provisions of Article 28 of this Proclamation shall apply only where the public servant has not inflicted the injury upon himself intentionally. Any injury resulting from, in particular, the following acts shall be deemed to be intentionally caused by the public servant:

1/ non-observance of safety instructions or preventive rules specifically issued by the public office; or

2/ reporting to work in a state of intoxication that prevents him from properly regulating

his conduct or understanding.

30. Schedule of Occupational Disease and Degrees of Incapacity

1/ For the implementation of this Proclamation the Fund shall, in consultation with the appropriate organ and by directive, issue a schedule that lists:

a) the degrees of incapacity;

b) with respect to each occupational disease:

(1) the symptoms;

(2) the kind of work or surrounding that gives rise to the disease;

(3) the minimum duration of exposure to the agent causing the disease.

2/ The schedule issued in accordance with subarticle (1) of this Article shall be revised periodically as necessary.

31. Presumption

1/ Where a disease listed in the schedule is contracted by a public servant engaged in the corresponding work place or kind of work, it shall be presumed an occupational disease.

2/ Where a public servant who had recovered from an occupational disease is re-infected due to continued placement in the occupation corresponding to the disease listed in the schedule, he shall be presumed to have contracted the occupational disease afresh.

3/ Notwithstanding the provisions of sub-article (3) of Article 28 of this Proclamation, where a public servant engaged in the eradication of endemic or epidemic disease contracts same, it shall be presumed an occupational disease.

32. Admissibility of Evidence

Production of evidence may be permitted to proof that a disease not listed in the schedule to be issued under Article 30 of this Proclamation is of occupational origin, and that a disease listed in the schedule has been manifested in different symptoms from those indicated therein.

33. Notification of Accident

Where a public servant other than member of the defense force sustains occupational injury, the public office shall notify, in writing, the occurrence of same to the Fund within 30 days of such occurrence. Failure to do so shall make the public office liable for the damage sustained by the public servant.

34. Assessment of Employment Injury

1/ The extent of employment injury sustained by a public servant shall be assessed by authorized medical board.

2/ Any medical board shall assess the extent of employment injury based on the schedule to be issued pursuant to Article 30 of this Proclamation.

3/ When it deems necessary, the Fund may refer the assessment to another medical board for further evaluation.

35. Incapacity Benefit

Incapacity pension for life or incapacity gratuity shall be paid, as the case may be, to a public servant who sustains employment injury of not less than 10%.

36. Incapacity Pension

A public servant who sustains employment injury of not less than 10% and separates from work due to permanent incapacity that prevents him from engaging in any remunerated work shall receive incapacity pension for life.

37. Amount of Incapacity Pension

1/ The amount of incapacity pension to be paid in accordance with Article 36 of this Proclamation shall be 47% of his salary which he was receiving during the month prior to the occurrence of the injury.

2/ If the retirement pension the public servant is entitled to is higher than the incapacity pension to be paid pursuant to sub-article (1) of this Article, he shall receive the retirement pension.

38. Incapacity Gratuity

1/ A public servant who sustains employment injury of not less than 10% without loss of capacity to work shall receive incapacity gratuity in the form of a lump sum.

2/ If, in accordance with the appropriate law or collective agreement, the public servant is entitled to compensation for damage from the employer or insurance benefit, he shall not receive the incapacity gratuity to be paid pursuant to sub-article (1) of this Article.

39. Amount of Incapacity Gratuity

The amount of incapacity gratuity payable in accordance with sub-article (1) of Article 38 of this Proclamation shall be equal to 47% of the monthly

salary of the public servant which he was receiving during the month preceding the occurrence of the injury multiplied by 60 and the percentage of injury sustained.

PART EIGHT
SURVIVORS PENSION AND GRATUITY

40. General

1/ Pension shall be paid to the survivors of a public servant who dies:

a) while receiving retirement or invalidity or incapacity pension;

b) while in service upon completing at least 10 years of service; or

c) due to employment injury.

2/ If a public servant who has not completed 10 years of service dies while in service, his survivors falling under sub-article (3)(a) and (b) of this Article shall receive gratuity.

3/ The following shall be considered as survivors:

a) a widow or widower;

b) children of the deceased who are under the of age of 18 years or in the case of incapacitated child or a child with mental health problem, under the age of 21 years;

c) parents who were wholly or mainly supported by the deceased preceding his death.

41. Widow's or Widower's Pension

1/ The amount of pension payable to a widow or widower shall be 50% of the pension to which the deceased was or would have been entitled.

2/ Widow's or widower's pension shall be discontinued from the beginning of the month following remarriage where:

a) the age of the widow is less than 45 years; or

b) the age of the widower is less than 50 years.

3/ A widow or widower shall return the pension received in violation of sub-article (2) of this Article.

4/ The provisions of sub-article (2) and (3) of this Article shall not be applicable to disabled widow or widower.

5/ Where a widow or widower is entitled to more than one pensions in accordance with the provisions of this Article, the one that is higher shall be paid.

42. Surviving Child's Pension

1/ The amount of pension payable to the surviving child shall be 20% of the pension to which the deceased was or would have been entitled.

2/ If both parents are dead, the amount of pension payable to the surviving child in accordance with sub-article (1) of this Article shall be 30%.

3/ If both parents of a child are dead, he shall receive 20% of the pension to which each of the deceased parent was or would have been entitled; provided, however, that the sum of such pensions shall not be less than the amount payable in accordance with sub-article (2) of this Article.

43. Parent’s Pension

The amount of pension payable to each parent shall be 15% of the pension to which the deceased was or would have been entitled. If there are no survivors other than the parents, the pension shall be 20%.

44. Survivors’ Gratuity

The amount of gratuity payable to any survivor shall be the amount of gratuity to which the deceased would have been entitled and shall be calculated in accordance with the percentage specified in Article 41(1) or Article 42 of this Proclamation, as the case may be.

45. Limits of Survivors’ Benefits

1/ The total amount of benefits payable to survivors in accordance with Article 41 to Article 44 of this Proclamation shall not exceed 100% (hundred percent) of the benefit to which the deceased was or would have been entitled. In the case of excess sum, each survivor’s share shall be proportionately reduced until the total comes down to 100%.

2/ If the number of survivors is reduced subsequent to the adjustment made under sub-article (1) of this Article, further adjustment of the amount of benefits shall be made accordingly.

PART NINE

GENERAL PROVISIONS RELATING TO BENEFITS

46. Minimum Pension and Pension Adjustment

Based on the status of the pension fund and the existing living condition, the Fund may determine monthly minimum pension amount and adjust pension benefit.

47. Mode and Period of Payment of Pension

1/ Payment of pension shall be effected monthly.

2/ Retirement pension shall commence to accrue as of the first day of the month following that in which the public servant retires.

3/ Invalidity pension shall commence to accrue as of the first day of the month following that in which the invalidity of the public servant is ascertained by medical board.

4/ Incapacity pension shall commence to accrue as of the first day of the month following that in which the permanent total incapacity sustained by the public servant is ascertained by medical board.

5/ Survivor's pension shall commence to accrue as of the first day of the month following that in which the beneficiary dies.

6/ If a public servant serve beyond retirement age provided in this Proclamation, the retirement pension payment shall commence after termination of service from public office and as of the first day of the month following that in which the retirement pension is requested to the Fund.

48. Mode and Period of Payment of Gratuity

1/ Payment of any gratuity shall be effected in lump sum at once.

2/ Retirement or invalidity gratuity shall be payable beginning with the first day of the month following that in which the public servant separates from the service.

3/ Incapacity gratuity shall be payable beginning with the day where evidence ascertaining the injury and its degree is submitted.

49. Period of Limitation

1/ Any claim for payment of arrears of pension benefit or payment of gratuity shall be barred by limitation after three years.

2/ The period of limitation shall begin to run from the day following that in which the right may be exercised.

3/ The period of limitation shall not include the following:

a) period lapsed due to a court process started to establish the right;

b) period lapsed due to non fulfillment by the public office of its obligation to submit evidentiary documents on time;

c) period necessary for the decision of benefit entitlement by the Fund.

50. Non-Transferability of Entitlement to Benefits

The right to receive benefits shall not be pledged or transferred by inheritance or any other means.

51. Attachment of Benefits by Law

Benefits payable in accordance with this Proclamation shall not be attached in relations to any debts unless ordered by a court in respect of:

1/ public fines, taxes or charges; or

2/ fulfillment of the obligation to supply maintenance in accordance with the relevant law.

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 his own.

PART TEN
MISCELLANEOUS PROVISIONS

52. Relationship between Entitlements

1/ If a beneficiary who receives retirement benefit is employed by a public office and has not reached the retirement age stipulated under sub-article(1)(c) of Article 18 of this Proclamation, his new service year shall be added to his previous service; however, for the retirement beneficiary the new service shall be added only when he attains the retirement age of 60.

2/ Without prejudice to sub-article (l) of this Article, if the amount of retirement pension calculated based on .the accumulated service is less than the previous one, the beneficiary shall have the right to receive the previous pension benefit; however, there shall not be any payment of benefit or contribution reimbursement for the service rendered by the public servant.

3/ Without prejudice to the provisions of Part Eight of this Proclamation, if a beneficiary is entitled to more than one benefits, in accordance with this Proclamation the amount of benefit to be paid shall be determined in accordance with the directive to be issued by the Fund.

4/ Without prejudice to sub-article (2) of Article 16 of this Proclamation, a retired employee of a nationalized enterprise who is receiving monthly benefit on the date of nationalization shall continue to get the amount of pension benefit adjusted in accordance with this Proclamation.

5/ Senior government officials and members of parliament who have completed at least 10 years of service or who attains the age of retirement upon separating from service before completing five years of service shall be entitled to benefits applicable to public servants other than members of the defense force and the police in accordance with the provisions of this Proclamation.

6/ Without prejudice to the provision of subarticle (4) of this Article, the payment of pension benefit to an outgoing senior government official or member of parliament pursuant to Article 19(5) or Article 23(2) of this Proclamation shall be terminated following a decision to terminate his rights and benefits in accordance with Article 55 of Proclamation No. 653/2009.

7/ If a public servant who separate from service by voluntary resignation and begins receiving benefit is reemployed in the same public office from which he is retired as of the effective date of this proclamation the payment of benefit shall be terminated.

53. Obligation to Provide Evidentiary Data and Duty to Cooperate

1/ Any public office shall collect, compile and submit to the Fund, in accordance with the provisions of Part Two of this Proclamation and in accordance with the form and within the time limit specified by the Fund, evidentiary data relating to each public servant which are necessary for the implementation of this Proclamation.

2/ For the purpose of implementing this Proclamation, any person shall provide information or written evidence or appear and testify or give his opinion when so requested by the Fund.

3/ The appropriate bodies shall have the duty to cooperate with the Fund in collecting pension contributions pursuant to delegations of powers under Article 12(5) of this Proclamation.

54. Decision of the Fund

1/ The fulfillment of conditions for entitlement to any kind of benefit payable in accordance with this Proclamation and the amount of the benefit shall be decided by the Fund.

2/ The decision of the Fund to be rendered in accordance with sub-article (1) of this Article shall be based on its own records, evidentiary data submitted to it in accordance with Article 53 of this Proclamation and, as may be appropriate, on additional evidences produced by the beneficiary.

3/ In the case of a difference between the records of the Fund and evidentiary data submitted to it, the prevailing evidence shall be decided by the Fund.

55. Review of Decisions

1/ The Fund may review its previous decision upon request by an aggrieved beneficiary or on its own initiative.

2/ Notwithstanding the provisions of Article 51 of this Proclamation, where upon review the Fund finds that there is reasonable ground for cancellation, deduction or termination of benefits, it may suspend payment to the extent the benefit is to be cancelled, deducted or terminated.

3/ Notwithstanding the provisions of Article 51 of this Proclamation, if the Fund, upon review, has decided to deduct the benefit or the benefit paid is contrary to this Proclamation, it shall have the power to deduct the amount paid thereof from the benefit of the beneficiary and transfer same to pension fund.

56. Appeal

1/ A beneficiary who is aggrieved by the decision of the Fund made pursuant to Article 54 or Article 55 of this Proclamation shall have a right to lodge an appeal to the Social Security Appeal Tribunal established under Article 57 of this Proclamation.

2/ An appeal may lodged to the Tribunal within one year from the date of the decision which is subject to the appeal.

3/ The Tribunal, upon examining an appeal submitted to it in line with the provisions of this Proclamation and regulations and directives issued for the implementation of this Proclamation, may reverse, vary or confirm the decision of the Fund.

4/ The decision of the Tribunal given in accordance with sub-article (3) of this Article shall be final; provided, however, that any party may appeal to

the Federal Supreme Court within 30 days, if there is a fundamental error of law in the decision.

57. Social Security Appeal Tribunal

1/ A Social Security Appeal Tribunal is hereby established to hear and decide on appeals to be submitted in accordance with Article 56 of this Proclamation.

2/ The organization and assignment of members of the Tribunal shall be determined by the government.

3/ There shall be quorum where more than half of the members of the Tribunal are present at its meeting.

4/ The Tribunal shall pass decisions by majority vote; provided, however, that the Chairperson shall have a casting vote in case of a tie.

5/ Without prejudice to the provisions of this Article, the Tribunal may issue its own directive of procedures.

58. Tax Exemption

No tax shall be payable on benefits received, pension contributions collected and profits earned from investment of pension funds, in accordance with this Proclamation.

59. Transitory Provisions

1/ Previous laws and directives shall remain applicable to legal situations created before the coming into force of this Proclamation.

2/ Until the Fund issues the schedule referred to in Article 30 of this Proclamation to determine the degrees of incapacity, the practices followed by medical boards shall remain applicable.

3/ Without prejudice to sub-article (5) of Article 17 of this Proclamation, the provisions of this Proclamation shall apply to public servant who have been employed in definit period of time in a public office, public enterprise or project or program carried out by government before June 08, *2003* and become permanent; provided,, however, that he shall be serving as public servant on the date of coming into force of this Proclamation and pays the due contribution.

4/ Without prejudice to sub-article (4) of Article 19 and sub-article (1) of Article 59 of this Proclamation, Sub article (3) of Article 19 of this Proclamation shall be applicable to public servant who have completed at least 25 years of service and separates from service on different grounds before July 08,2015,

5/ Without prejudice to sub-article (1) of this Article, a public servant or beneficiary who lost his right to have retirement pension benefit due to criminal punishment for not less than three years rigorous imprisonment, shall have right to effective date of July 08, 2015; provided, however, he cannot claim arrear payments.

6/A period of service not counted for the reason mentioned in sub-article (5) of this Article shall be added to the new services of the public servant who is engaged on or after the effective date of July 08,2015.

60. Power to Issue Regulation and Directive

1/ The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.

2/ The Fund may issue directives necessary for the implementation of this Proclamation and regulations issued pursuant to sub-article (1) of this Article.

61. Penalty

Any person who refuses to provide evidence under this Proclamation or who commits an act that interferes with the implementation of this Proclamation shall be liable under criminal law

62. Repealed and Inapplicable Laws

1/ The following are hereby repealed:

a) the Public Servants Pension ProclamationNo. 714/2011 (as amended by proclamation No 907/2015);

b) Article 12 and with respect to pension coverage, the provision of sub-article(1) of Article 30 of the Privatization of Public Enterprises Proclamation No. 146/1998,

c) Article 12 and Article 21 of the Outgoing Heads of State and Government, Senior Government Officials, Members of Parliament and Judges Proclamation No. 653/2009.

2/ No laws or customary practices shall, in so far as they are inconsistent with this Proclamation, shall have force and effect in respect of matters provided for by this Proclamation.

63. Effective Date.

This Proclamation shall enter into force as of ……2021

Done at Addis Ababa, …….2021

Sahilework Zawde

PRESIDENT OF THE FEDERAL

DEMOCRATIC REPUBLIC OF ETHIOPIA