PROCLAMATION NO. 632/2009

A PROCLAMATION TO PROVIDE FOR EMPLOYMENT EXCHANGE SERVICES

WHEREAS, it has become necessary to define the role of public and private employment agencies in employment exchange;

WHEREAS, it has particularly become necessary to further protect the rights, safety and dignity of Ethiopians going abroad for employment in pursuance to their qualification and ability;

WHEREAS, it has become necessary to revise the existing Private Employment Agency Proclamation No. 104/1998 to strengthen the mechanism for monitoring and regulating domestic and overseas employment exchange services;

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 “Employment Exchange Services Proclamation No. 632/2009”
2. Definitions

In this Proclamation, unless the context otherwise requires:

1/ “private employment agency” means any person, independent of government bodies, which performs any one or all of the following employment services without directly or indirectly receiving payments from workers:

a) services of matching offers of and application for local employment without being a party to the employment contract;

b) services of making a worker available locally or abroad to a third party by concluding a contract of employment with such a worker;

2/ “license” means a certificate of competence issued by the competent authority to a private employment agency enabling the agency to engage in providing employment exchange services;

3/ “employer” means shall have the meaning as defined in the Labour Proclamation No. 377/2003;

4/ “worker” means shall have the meaning as defined in the Labour Proclamation No. 377/2003, and includes job seekers as appropriate;

5/ “competent authority” means the Ministry or a regional authority responsible for the implementation of the labour law in the region;

6/ “Ministry” means the Ministry of Labour and Social Affairs;

7/ “public employment service” means the service of issuance of license to private employment agencies, monitoring and supervision of such agencies and the issuance of work permit by the Ministry to citizens to work abroad, and includes other services provided in this Proclamation;
3. **Scope of Application**

1/ This Proclamation shall be applicable to any Ethiopian going abroad for employment through a private employment agency or a public employment service.

2/ Notwithstanding the provisions of sub-article 2(d) of Article 3 of the Labour Proclamation No. 377/2003, this Proclamation shall also be applicable to an Ethiopian going abroad for employment to work for personal service of non-profit making purposes.

3/ This Proclamation shall not relieve any private employment agency from its obligations imposed by other laws.

4. **Dispute Resolution**

Any labour dispute and violation of rights provided in Article 20 of this Proclamation, arising between the agency providing a service specified in sub-article 1(b) of Article 2 of this Proclamation and a worker may be settled in accordance with Proclamation No. 377/2003.

**PART TWO**

**PRIVATE EMPLOYMENT AGENCY’S LICENSE**

5. **Requirement of License**

Any person who wishes to operate a private employment agency shall have to obtain a license from:
6. **Eligibility to Obtain License**

Any person shall be eligible to obtain private employment agency’s license in accordance with this Proclamation:

1/ where such business is to be carried on by an individual, an Ethiopian citizen or a foreigner who has a permanent residence permit;

2/ where such business is to be carried on by a partnership, share company or a private limited company, the shares or contributions of the capital are owned by Ethiopian citizens or a foreigner who has a permanent residence permit.

7. **Pre-conditions to Obtain License**

1/ Any person who applies to operate a private employment agency in accordance with this Proclamation shall fulfill the following:

a) present an application for license;

b) present a document that shows he has a business registration for the operation of a private employment service;

c) where the agency is owned by an individual, partnership, share company or private limited company, the applicant or the members shall submit clearance from the police to show he or they have never engaged in an illegal employment activity or human trafficking;
An applicant who wishes to operate a private employment agency that engages in overseas employment exchange service shall, in addition to the requirements specified under sub-article (1) of this Article, fulfill the following:

a) submit an authenticated document showing that he has appointed a representative in the country where he sends workers, and that the appointed person has a license to engage in employment exchange activity from the concerned authority;

b) submit an evidence, verified by the embassy or consular office in the country to which the private employment agency sends workers, showing the existence of a sufficient office and a facility that provides temporary food and sheltering services;

c) have a fully equipped office within the country, a place to provide a service of per-employment and pre-recruitment orientation as verified by an inspector appointed by the Ministry;

d) fulfill the requirement of guarantee in accordance with Article 23 of this Proclamation;
8. Issuance of License

The competent authority shall, upon the fulfillment of the required conditions specified under Article 7 of this Proclamation, issue a license to the applicant.

9. Disqualification

1/ Any applicant shall not be eligible for a private employment agency’s license where:
   a) the license of a private employment agency established by himself, a partnership or private limited company of which he was a member or a share company where he was a member of its board of directors has been revoked for violating this Proclamation or regulations or directives issued hereunder;
   b) he was punished for his engagement in an illegal employment activity or for human trafficking; or
   c) he is accused for a crime provided for in sub-article (1) of this Article and the case is pending before a court of law, until such time a final judgment is rendered.

2/ The restriction provided for under sub-article (1) (a) of this Article may not be applicable to an applicant whose license has been revoked for failure to comply with the requirements specified in sub-article (2) (j) of Article 16 of this Proclamation.

10. Renewal of License

1/ A license issued in accordance with this Proclamation shall be renewed every year.

2/ A private employment agency has to fulfill the following requirements to renew its license:
   a) submit an application for the renewal of the license one month prior to its expiry;
11. Non-transferability of License

It is prohibited to transfer a private employment agency’s license issued by the competent authority; provided however, that in case of death of a sole proprietor, the license may be extended to his heirs, upon their request, for the mere purpose of preventing disruption and winding up of operation of the business to protect the rights, security and dignity of workers in accordance with this Proclamation.

12. Opening of Office

1/ Any private employment agency shall open an office for the operation of its activities.
2/ A private employment agency which hires and deploys Ethiopians abroad for work shall have a branch office or a representative in the country where he sends workers.

3/ The number of local employment exchange agencies an agency in a receiving country may represent shall be determined by a directives to be issued by the Ministry.

4/ A private employment agency that operates in sending workers abroad for work shall apply for a permission from the Ministry before opening a local branch office.

13. Displaying of License

Any private employment agency shall display the license issued to it in accordance with this Proclamation, in its office so that it shall be visible to other persons.

14. Transfer of Office

Any private employment agency shall notify the competent authority prior to transferring its office to another place.

15. Payment of Costs

1/ An employer shall, through the private employment agency, be responsible for the payment of the following costs in relation to the employment of a worker:

   a) visa fee of the country of destination;
   b) round trip ticket;
   c) residence and work permit fees;
   d) embarkation fee;
   e) insurance coverage.

2/ The worker shall be responsible to cover the costs of:

   a) issuance of passport;
   b) authentication of documents within the country;
   c) medical examination;
   d) vaccination;
   e) birth certificate;
   f) skill testing; and
   g) certificate of clearance from any crime.
3/ The cost of medical examination referred to in sub-article (2) of this Article shall be covered by the agency if conducted for more than once.

4/ Unless the worker fails to be deployed for work for reasons attributable to himself, the agency shall refund all the worker’s expenses referred to in sub-article (2) of this Article.

5/ Where the worker fails to be deployed for work for unjustified reasons after all necessary conditions are fulfilled, he shall cover all the expenses incurred by the agency in accordance with sub-article (1) of this Article.

PART THREE

OBLIGATIONS OF CONTRACTING PARTIES

16. Obligations of Private Employment Agency

1/ Without prejudice to the obligations specified in other provisions of this Proclamation and other laws, any private employment agency shall have the following obligations:

   a) to prepare and submit for approval to the competent authority a procedure regarding the recruitment and registration of job seekers before commencing his work;
   b) to pay the required fee for issuance, renewal and replacement of its license as determined by regulations issued in accordance with this Proclamation;
   c) notify the competent authority six months prior to ceasing its operations;
   d) to submit the contract of employment to the competent authority for approval and registration if it provides the service specified in sub-article (b) of Article 2 of this Proclamation;
   e) execute other obligations specified in directives issued by the competent authority in accordance with this Proclamation.
2. In addition to the obligations provided for in sub-article (1) of this Article, a private employment agency which sends workers for employment abroad shall have the following obligations:

a) not to recruit a job seeker below the age of 18 years;

b) before referring the worker for medical examination, confirm that the overseas position is secured;

c) not to terminate the contract of employment before acquiring the consent of the worker in writing to transfer him to another employer;

d) to get approval from the Ethiopian embassy or consular office and notify the Ministry of the worker in writing to transfer him to another employer;

e) to deploy the worker for work within one month after the employment contract is approved.

f) to observe the cultural values of the society and public morality while performing its work;

g) to submit information collected from the worker abroad after being authenticated by the nearest Ethiopian embassy or consular office;

h) to notify the Ministry of the worker in writing to transfer him to another employer.

3. The Ministry shall, within fifteen days, with the nearest Ethiopian embassy or consular office, make the deployment of the worker materialized in accordance with the approved contract of employment if the deployment materialized in accordance with paragraph (e) of this sub-article.
17. **Obligation of Workers**

Any worker deployed abroad shall have the following obligations:

1/ to carry out his work in accordance with the contract of employment;

2/ to respect the laws and cultural values of the country of employment;

3/ to give true information in connection to his employment.

18. **Returning Worker to his Home Land**

1/ A private employment agency shall have the obligation:

   a) to return a worker to his home land and cover all the expenses incurred in connection to his return upon the termination of the contract of employment of the worker; and

   b) if the worker sustains grave bodily injury or dies while working in the country of employment, to return the injured worker or the body and his personal effects to his home land, and to cover the expenses thereof.
19. Obligation to Report

Any private employment agency shall submit reports, to the Ministry at every three months, on its foreign exchange earnings transferred to domestic banks.

20. Protection of the Rights of Workers

1/ A contract of employment concluded between a private employment agency which sends workers abroad and a worker shall fulfill the minimum working conditions laid down in the laws of Ethiopia and shall in no circumstance be less favorable than the rights and benefits of those who work in a similar type and level of work in the country of employment.

2/ The private employment agency shall, in addition to the rights and benefits provided for the sub-article (1) of this Article, be responsible to ensure the rights, safety and dignity of the worker.

21. Advertisement

No private employment agency may advertise a job opportunity in any mass media unless the advertisement contains:

1/ the agency’s name and address;

2/ the license number to operate as a private employment agency; and

3/ correct information relating to the vacancies, number of workers required and qualification requirements.
22. Liability

The private employment agency and the third party shall jointly and severally be liable for violation of the contract of employment concluded with a worker to provide the service mentioned in sub-article 1(b) of Article 2 of this Proclamation.

23. Requirement of Guarantee

1/ Any private employment agency which deploys workers abroad in accordance with this Proclamation shall, for the purpose of protecting the rights of the workers, deposit the following amount of money, 50% in a blocked bank account and 50% in the form of approved and irrevocable instrument of guarantee from a recognized financial organization:

a) for up to 500 workers USD 30,000 or its equivalent in Birr;

b) from 501 up to 1,000 workers USD 40,000 or its equivalent in Birr;

c) for 1,001 and above workers USD 50,000 or its equivalent in Birr.

2/ A private employment agency that deploys workers abroad in more than three countries shall be required to deposit an additional amount of guarantee as provided in paragraph (a), (b) or (c) of sub-article (1) of this Article.

3/ Where the worker dies or sustains a serious bodily injury and the private employment agency fails to return the body or injured worker, the Ministry may withdraw the guarantee fund deposited in accordance with sub-article (1) or (2) of this Article for the return of the body or the injured worker.

4/ Where the guarantee fund is used in accordance with sub article (3) of this Article, the private employment agency shall replenish the fund within ten days.
5/ The Ministry may release the guarantee fund after six months from the termination of the employment contracts of the workers sent abroad by the private employment agency, unless a claim connected with workers rights and benefits is pending before a body empowered to adjudicate such claim.

24. Minimum Wage

The Ministry may issue directive governing the minimum wage of overseas workers depending on the situation of each country.

25. Unlawful Acts

1/ It shall be unlawful for a private employment agency to:

a) deploy a person under the age of 18 to work abroad;

b) charge a worker payments in cash or in kind other than provided for in sub-article (2) of Article 15 of this Proclamation;

c) present or give false information to recruit and deploy overseas workers;

d) deploy a worker on a job that harms his moral and human rights or disgrace the country’s image;

e) amend any approved employment contract without notifying the Ministry and securing its approval;

f) withhold or deny travel or other pertinent documents of a worker, for any reason, without his consent before or after his deployment;

g) deploy a worker to a country other than that specified in the contract of employment or in its license;

h) transfer its license to another person; or
2/ It shall be unlawful for a worker to:

a) present false information for the purpose becoming eligible for recruitment;

b) present false information to be included in the personal data form or contract of employment.

26. Burden of Proof

Where a worker who is deployed abroad by a private employment agency institutes an action relating to conditions of work, the agency or the employer shall, if it challenges the allegation, be responsible to disprove it.

PART FOUR

SUSPENSION AND REVOCATION OF LICENSE

27. Suspension of License

1/ The competent authority may, until such time that the irregularities are rectified, suspend a private employment agency’s license, where the license holder:

a) has failed to renew its license;

b) has failed to provide accurate and timely information or to submit a report it has been requested in accordance with this Proclamation;

c) has failed to display its license in a conspicuous place in its office;

d) has failed, as ascertained by an inspector, to provide the required services in accordance with this Proclamation;

e) has failed to protect the rights, safety and dignity of citizens it has deployed abroad; or

i) engage in providing services other than the permitted type and place of service.
2/ The competent authority shall, before deciding to revoke the license of a private employment agency, give the license holder 30 days prior notice specifying the reason for the revocation and the opportunity to challenge it.
3/ Where the license holder fails to submit its opposition within the period provided for in sub-article (2) of this Article or its opposition is considered groundless, the competent authority may revoke the license.

4/ Notwithstanding the provisions of sub-article (3) of this Article, the competent authority may delay the revocation of a license where it is deemed necessary to protect the rights of workers deployed abroad by the license holder.

29. Appeal

1/ A private employment agency which is aggrieved by a decision of the competent authority to suspend or revoke its license may appeal to the Federal First Instance Court or to a regional high court within 15 days after the decision has been served to it.

2/ The decision of the court on the appeal submitted under sub-article (1) of this Article shall be final.

30. Effect of Suspension or Revocation

1/ Without prejudice to sub-article (2) of Article 21 of this Proclamation, where a decision by the competent authority to suspend or revoke a license becomes effective, the private employment agency shall forthwith cease to carry on the employment exchange activity.

2/ The suspension or revocation of a license may not relieve a private employment agency from any claim of workers deployed abroad that may arise in connection with the license.

3/ Where the license of a private employment agency is revoked, the agency shall return the license to the competent authority within 10 days.

4/ The competent authority shall notify the concerned organs of the revocation of the license.
PART FIVE
PUBLIC EMPLOYMENT SERVICE

31. Functions of Public Employment Service

The functions of public employment service shall include the following:

1/ issuance of licenses to private employment agencies and supervision of their activities to ensure their compliance with the conditions of their licenses;

2/ approval and registration of employment contracts of citizens to be employed abroad upon investigating such contracts to ensure that they incorporate basic conditions of work stipulated by law;

3/ facilitating the resolution of disputes that may arise between workers and private employment agencies through providing conciliation and legal counseling services;

4/ providing per-employment and pre-travel counseling to citizens about the country of their deployment;

5/ facilitating the resettlement of citizens who return to their home country after deployment abroad;

6/ facilitating the lawful labour migration by studying labour market situation abroad and within the country;

7/ monitoring, through the Ethiopian embassies or consular office, the overseas employment opportunities and protecting the rights, safety and dignity of citizens deployed abroad;

8/ maintaining and analyzing vital information concerning citizens deployed abroad and dissemination of the same to the concerned organs;

9/ facilitating the bank remittance of citizens remunerations to their home land during their employment abroad.
Conditions for Permitting Direct Recruitment

1. The Ministry may permit a direct recruitment of an employee to be deployed abroad where:

   a) the employer is a staff of an Ethiopian diplomatic mission;
   
   b) the recruitment is executed in accordance with a treaty to which Ethiopia is a party;
   
   c) an undertaking situated in the country employs a worker for a branch office that exists abroad;
   
   d) a job seeker acquires a job opportunity by his own accord;
   
   e) an undertaking situated abroad wishes to employ a worker for its own.

2. A contract of employment for direct recruitment as provided for in sub-article 1(c), (d) or (e) of this Article, shall only be acceptable by the Ministry where:

   a) the rights, safety and dignity of the worker could be ensured by obtaining evidence, as attested by the Ministry of Foreign Affairs:
   
   /1/ from the Ethiopian embassy or consular office of the country of employment; or
   
   /2/ where there is no Ethiopian embassy or consular office, in the country of employment, from that country’s chamber of commerce or ministry in charge of labour or foreign affairs;

   b) evidence confirming the existence of life and disability insurance coverage pursuant to Article 33(1) of this Proclamation has been presented; and

   c) a round trip ticket has been presented together with the contract of employment.
3/ Where it is confirmed that the employer of a worker recruited directly as provided for in sub-article (1) of this Article has contravened the contract of employment and violated the rights, safety or dignity of the worker, the Ministry shall take the necessary measures to remedy the situation.

33. Insurance Coverage

1/ Any worker deployed abroad, shall be covered by a life and disability insurance nationally or abroad by the employer. The Ministry may issue a directive prescribing the details.

2/ The concerned private employment agency or the worker shall present the insurance policy document to the Ministry.

34. Prohibition

1/ Unless the Ministry permitted an employer to recruit directly in accordance with sub-article (1) of Article 32 of this Proclamation, any Ethiopian may be allowed to go and work abroad only through a private employment agency.

2/ The Ministry may prohibit the deployment of citizens abroad where it is of the opinion that their safety might be at risk due to the country of destination being a war zone or it is facing natural calamity or the outbreak of disease or due to other similar causes.

3/ No person may engage in providing employment exchange service by receiving payment of charges from employees.

35. Inspection

1/ The competent authority shall have the power to assign inspectors to oversee the operations of private employment agencies and ascertain their compliance with the requirements of providing employment exchange services.

2/ Any inspector assigned by the competent authority shall have the following powers and duties to:
36. **Deployment of Labour Attachés**

The Ministry shall, in consultation with the Ministry of Foreign Affairs and after acquiring the permission of the higher authority assign labour attachés as may be required, to ensure the protection of the rights, safety and dignity of workers deployed abroad.
### 37. Powers and Duties of Labour Attachés

The powers and duties of a labour attaché shall include the following:

1/ to undertake appropriate follow up activities to ensure protection of the rights, safety and dignity of workers deployed abroad;

2/ to ascertain the financial status and capability of an employer to hire workers and to verify other information;

3/ to gather relevant information regarding overseas representatives of private employment agencies and furnish the same to the Ministry;

4/ to collect information relating to overseas job opportunities and employment and furnish the same to the Ministry;

5/ to provide the Ministry with information regarding the visa and residence permit requirements and labour legislations of country of destination;

6/ to approve the conclusion and renewal of contract of employment, as may be necessary, for Ethiopians holding their national passports, and notify the same to the Ministry;

7/ to verify the license, registration certificate and other similar documents of the overseas representative of a private employment agency;

8/ to ascertain that the overseas representative of a private employment agency meets the conditions prescribed under sub-article (2)(b) of Article 7 of this Proclamation.

### 38. Structure

The Ministry shall establish the necessary structure for discharging the functions specified under Article 31 of this Proclamation.

### 39. National Committee

1/ To protect the rights, safety and dignity of citizens a national committee shall be established by the Government.
2. Any person who, without having obtained a license in accordance with this Proclamation:

b) adapt its own rules of procedures;

g) facilitate the exchange of overseas employment information with concerned organs and the strengthening of the information data base;

h) cooperate with the creation of an information exchange data base.

3. In addition to the provisions of this Proclamation, the Ministry shall:

a) take all necessary steps to ensure that the necessary cooperation and support provided with the necessary cooperation and support provided for the purpose of facilitating the implementation of this Proclamation;

b) ensure that the national committee shall have the following powers and duties:

1. To conduct studies with a view to concluding bilateral agreements, exchange information with the receiving country to facilitate employment and thereby establish a conducive situation;

2. To ensure the implementation of this Proclamation;

3. To ensure that organs providing counsel and support services to and carry out resettlement programs for citizens returning to their home land for various reasons are provided with the necessary cooperation and support;

4. To cause the creation of public awareness.

4. The national committee shall have the following powers and duties:

a) ensure the proper implementation of this Proclamation;

b) ensure that organs providing counseling and support services to and carry out resettlement programs for citizens returning to their home land for various reasons are provided with the necessary cooperation and support.

5. Any person who, without having obtained a license in accordance with this Proclamation:

b) adapt its own rules of procedures;

g) facilitate the exchange of overseas employment information with concerned organs and the strengthening of the information data base;

h) cooperate with the creation of an information exchange data base.
The following are hereby repealed:

4/ Any government organ shall have the duty to cooperate with the Ministry in facilitating conditions in accordance with this Proclamation to ensure the rights, safety, and dignity of the citizen going abroad for employment.

4. Power to Issue Regulations and Directives

2/ The Ministry may issue directives necessary for the implementation of this Proclamation.

3/ Any person who commits an offense, other than those stated under article (1) and (2) of this Article, by violating provisions of this Proclamation, or regulations issued under sub-article (1) of this Article, by violating provisions of this Proclamation, shall be punishable with imprisonment for a term of not less than five years and not exceeding ten years and a fine of not less than three years and not exceeding five years of Birr 10,000 (ten thousand Birr); and Birr 25,000 (twenty-five thousand Birr). [Federal Negarit Gazeta No. 54 August, 2009]
43. Transitory Provisions

1/ A private employment agency licensed in accordance with Proclamation 104/1998 may continue its operations in accordance with the Proclamation; provided however, that it shall obtain a new license within six months from the effective date of this Proclamation. It shall be a sufficient ground for revoking the previous license if it fails to obtain a new license within the given period.

2/ Any labour dispute regarding a worker deployed abroad and pending, prior to the coming into force of this Proclamation, before any organ empowered to adjudicate labour disputes shall be settled in accordance with the law and procedure which were in force before the effective date of this Proclamation.

45. Effective Date

This Proclamation shall enter into force up on the date of publication in the Federal Negarit Gazeta.

Done at Addis Ababa, this 6th day of August, 2009

GIRMA WOLDEGIORGIS

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA