A PROCLAMATION TO PROVIDE FOR THE RIGHT TO EMPLOYMENT OF PERSONS WITH DISABILITY

WHEREAS, the negative perception of persons' disablement in society is deep rooted that, it has adversely affected the right of persons with disability to employment;

WHEREAS, the existing legislation on the right of disabled persons to employment created, by providing for reservation of vacancies for disabled persons, an image whereby people with disabilities to be considered as incapable of performing jobs based on merit and failed to guarantee their right to reasonable accommodation and to provide for proper protection;

WHEREAS, it has become necessary to enact a new law that complies with the countries policy of equal employment opportunity, provides reasonable accommodation for people with disabilities to employment and lays down simple procedural rule that enable them to prove before any judicial organ discriminations encountered in employment;

NOW, THEREFORE, in accordance with Article 55 (1) and (3) 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 “Right to Employment of Persons With Disability Proclamation No. 568/2008”.

2. **Definitions**

In this Proclamation, unless the context requires otherwise:

1/ “Person with disability” means an individual whose equal employment opportunity is reduced as a result of his physical, mental or sensory impairments in relation with social, economic and cultural discrimination;

2/ “Employment” means a relationship that exists between any person with disability and an employer, which includes recruitment, promotion, training, transfer and other conditions of work;

3/ “Employer” means any federal or regional government office or an undertaking governed by the Labor Proclamation;

4/ “Discrimination” means to accord different treatment in employment opportunity as a result of disability; provided, however, that any inherent requirement of the job or measures of affirmative actions may not be considered as discrimination;

5/ “Reasonable accommodation” means an adjustment or accommodation with respect to equipment at the work place, requirement of the job, working hours, structure of the business and working environment with a view to accommodate persons with disabilities to employment;

6/ “Undue burden” means an action that entails considerable difficulty or expense on the employer in accommodating persons with disabilities when considered in light of the nature and cost of the adjustments, the size and structure of the business, the cost of its operations and the number and composition of its employees:
Scope of Application

This Proclamation shall be applicable to the Employment relationship between a qualified worker or job-seeker with disability and an employer.

Protection of the Right of Persons with Disability to Employment

1/ Unless the nature of the work dictates otherwise, a person with disability having the necessary qualification and scored more to that of other candidates shall have the right with out any discrimination:

   a) to occupy a vacant post in any office or undertaking through recruitment, promotion, placement or transfer procedures; or

   b) to participate in a training programme to be conducted either locally or abroad.

2/ Subject to the provision of Sub-Article (1) of this Article, where a person with disability acquires the necessary qualification and having equal or close score to that of other candidates, preference shall be given to the conditions provided for in Sub-Article 1 (a) and (b) of this Article.

3/ No selection criteria shall refer to disabilities of a candidate unless the nature of the work dictates otherwise.
4. Any person with disability shall have the right to get the wage and other benefits of the position he occupies.

5. **Prohibition of Discrimination**

1/ Any law, practice, custom, attitude or other discriminatory situations that impair the equal opportunities of employment of a disabled person are illegal.

2/ Without prejudice to Sub-Article (1) of this Article, selection criteria which can impair the equal opportunity of disabled persons in recruitment, promotion, placement, transfer or other employment conditions shall be regarded as discriminatory acts.

3/ When a disabled person is not in a position to exercise his equal right of employment opportunity, as a result of absence of a reasonable accommodation, such an act shall be regarded as discrimination.

4/ Affirmative actions taken to create equal employment opportunity to persons with disabilities or exclusions dictated by the nature of the work may not be regarded as discrimination.

6. **Responsibilities of Employers**

1/ Any employer shall have the responsibility to:

   a) take measures to provide appropriate working and training conditions and working and training materials for persons with disability;

   b) take all reasonable accommodation and measures of affirmative action to women with disability taking into account their multiple burden that arise from their sex and disability;

   c) shall assign an assistant to enable a person with disability to perform his work or follow his training;
7. **Burden of Proof**

1/ Any person with disability who alleges that discrimination on the ground of his disability existed with respect to recruitment, promotion, placement, transfer or other conditions of employment may institute a suit to the competent court on the issue without the requirement of the burden of proof.

2/ The defendant to a suit instituted pursuant to Sub-Article (1) of this Article shall be responsible to prove that there was no act of discrimination.

8. **Responsibility of Employee with Disability**

1/ Any employee with disability shall perform his duty with full responsibility.

2/ Where an employee with disability does not perform his duty appropriately or commits a fault, his disability shall not relive him from responsibility.

9. **Implementation of the Proclamation**

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

2/ Without prejudice to the provisions of Sub-Article (1) of this Article, the Ministry of Labor and Social Affairs, the Federal Civil Service Agency and the appropriate regional organs may, in their respective jurisdiction, issue directives necessary for the proper implementation of this Proclamation.
3/ The Ministry of Labor and Social Affairs, the Federal Civil Service Agency and the appropriate regional organs shall have the power to follow up and ensure the proper implementation of the provisions of this Proclamation and regulation and directive issued pursuant to this Proclamation.

10. **Right to Institute an Action**

1/ Any person with disability whose rights are infringed due to non-observance of the provisions of this Proclamation, regulations or directives issued for the proper implementation of this proclamation or the association of persons with disabilities of which he is a member, or the trade union of which he is a member, or the concerned organ entrusted to implement this Proclamation may institute a suit before the competent court.

2/ The court shall render its decision within 60 days from the date on which the suit is instituted.

11. **Penalty**

1/ Unless the provisions of the Criminal Code provide more severe penalties, an employer who contravenes the provisions of this Proclamation or regulations or directives issued pursuant to this Proclamation shall be penalized by a fine not less than Birr 2,000 or not exceeding Birr 5,000.

2/ Where the employer fails to rectify the contravention, within one month, in accordance with the decision of the court, the penalty shall be increased by twofold.

3/ The employer may, in accordance with the appropriate law, hold responsible its officer or employee where the contravention is attributable to the fault of such officer or employee.

12. **Repealed and Inapplicable Laws**

1/ The Right of Disabled Persons to Employment Proclamation No. 101/1994 is hereby repealed.
2/ No law, regulation, directive or practice shall, in so far as it is inconsistent with this Proclamations, have force and effect in respect of matters provided for in this Proclamation.

13. **Transitory Provisions**

Labor disputes pending before any competent body prior to the coming into force of this Proclamation, shall be settled in accordance with the law which was in force before this Proclamation come into force.

14. **Effective Date**

This Proclamation shall enter into force up on Publication in the Federal Negarit Gazeta.

Done at Addis Ababa, this 25th day of March, 2008

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA