

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila

DEPARTMENT OF LABOR AND EMPLOYMENT	
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DEPARTMENT ORDER NO. 40-G-03
Series of 2010

AMENDING RULE XXII OF THE IMPLEMENTING RULES OF BOOK V OF THE
LABOR CODE OF THE PHILIPPINES

SECTION 1. Pursuant to Articles 5, 263, 264 and 265 of the Labor Code, as amended, Rule XXII, Book V of the Omnibus Rules Implementing the Labor Code, as amended by Department Order No. 40, Series of 2003, as amended, is hereby amended as follows:

RULE XXII
CONCILIATION, STRIKES AND LOCKOUTS

Section 15 of Rule XXII is hereby amended and renumbered as Section 19 and new Sections 15 to 18 are inserted to read as follows:

“SECTION 15. ASSUMPTION BY THE SECRETARY OF LABOR AND EMPLOYMENT. – WHEN A LABOR DISPUTE CAUSES OR IS LIKELY TO CAUSE A STRIKE OR LOCKOUT IN AN INDUSTRY INDISPENSABLE TO THE NATIONAL INTEREST. THE SECRETARY OF LABOR AND EMPLOYMENT MAY ASSUME JURISDICTION OVER THE DISPUTE AND DECIDE IT OR CERTIFY THE SAME TO THE NATIONAL LABOR RELATIONS COMMISSION FOR COMPULSORY ARBITRATION, PROVIDED, THAT ANY OF THE FOLLOWING CONDITIONS IS PRESENT:

1. BOTH PARTIES HAVE REQUESTED THE SECRETARY OF LABOR AND EMPLOYMENT TO ASSUME JURISDICTION OVER THE LABOR DISPUTE; OR
2. AFTER A CONFERENCE CALLED BY THE OFFICE OF THE SECRETARY OF LABOR AND EMPLOYMENT ON THE PROPRIETY OF ITS ISSUANCE, *MOTU PROPRIO* OR UPON A REQUEST OR PETITION BY EITHER PARTIES TO THE LABOR DISPUTE.

SUCH ASSUMPTION SHALL HAVE THE EFFECT OF AUTOMATICALLY ENJOINING AN IMPENDING STRIKE OR LOCKOUT. IF A STRIKE/LOCKOUT HAS ALREADY TAKEN PLACE AT THE TIME OF ASSUMPTION, ALL STRIKING OR LOCKED OUT EMPLOYEES AND OTHER EMPLOYEES SUBJECT OF THE NOTICE OF STRIKE SHALL IMMEDIATELY RETURN TO WORK AND THE EMPLOYER SHALL IMMEDIATELY RESUME

OPERATIONS AND READMIT ALL EMPLOYEES UNDER THE SAME TERMS AND CONDITIONS PREVAILING BEFORE THE STRIKE OR LOCKOUT.

NOTWITHSTANDING THE FOREGOING, PARTIES TO THE CASE MAY AGREE AT ANY TIME TO SUBMIT THE DISPUTE TO THE SECRETARY OF LABOR OR HIS DULY AUTHORIZED REPRESENTATIVE AS VOLUNTARY ARBITRATOR OR TO A DULY ACCREDITED VOLUNTARY ARBITRATOR OR TO A PANEL OF VOLUNTARY ARBITRATORS.

SECTION 16. REQUIREMENT FOR MINIMUM OPERATIONAL SERVICE. - IN LABOR DISPUTES ADVERSELY AFFECTING THE CONTINUED OPERATION OF HOSPITALS, CLINICS OR MEDICAL INSTITUTIONS, IT SHALL BE THE DUTY OF THE STRIKING UNION OR LOCKING-OUT EMPLOYER TO PROVIDE AND MAINTAIN AN EFFECTIVE SKELETAL WORKFORCE OF MEDICAL AND OTHER HEALTH PERSONNEL, WHOSE MOVEMENT AND SERVICES SHALL BE UNHAMPERED AND UNRESTRICTED, AS ARE NECESSARY TO ENSURE THE PROPER AND ADEQUATE PROTECTION OF THE LIFE AND HEALTH OF ITS PATIENTS, MOST ESPECIALLY EMERGENCY CASES, FOR THE DURATION OF THE STRIKE OR LOCKOUT.

SECTION 17. DECISION ON THE ASSUMED LABOR DISPUTE; FINALITY. - THE DECISION OF THE SECRETARY OF LABOR AND EMPLOYMENT, THE NLRC OR VOLUNTARY ARBITRATOR OR PANEL OF VOLUNTARY ARBITRATORS SHALL BE RENDERED WITHIN THIRTY (30) CALENDAR DAYS FROM SUBMISSION OF THE CASE FOR RESOLUTION AND SHALL BE FINAL AND EXECUTORY TEN (10) CALENDAR DAYS AFTER RECEIPT THEREOF BY THE PARTIES.

SECTION 18. PROHIBITIONS ON LAW ENFORCEMENT AGENCIES OR PUBLIC OFFICIALS/EMPLOYEES, ARMED PERSONS, PRIVATE SECURITY GUARDS AND SIMILAR PERSONNEL IN THE PRIVATE SECURITY AGENCY. EXCEPTION. - NO PUBLIC OFFICIAL OR EMPLOYEE, INCLUDING OFFICERS AND PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES OR THE PHILIPPINE NATIONAL POLICE, OR ARMED PERSON, PRIVATE SECURITY GUARDS AND SIMILAR PERSONNEL IN THE PRIVATE SECURITY AGENCY SHALL BRING IN, INTRODUCE OR ESCORT IN ANY MANNER, ANY INDIVIDUAL WHO SEEKS TO REPLACE STRIKERS IN ENTERING OR LEAVING THE PREMISES OF A STRIKE AREA, OR WORK IN PLACE OF THE STRIKERS.

THE POLICE FORCE SHALL KEEP OUT OF THE PICKET LINES UNLESS ACTUAL VIOLENCE OR OTHER CRIMINAL ACTS OCCUR THEREIN.

BUT ANY PUBLIC OFFICER, THE SECRETARY OF LABOR AND EMPLOYMENT OR THE NLRC MAY SEEK THE ASSISTANCE OF LAW ENFORCEMENT AGENCIES TO MAINTAIN PEACE AND ORDER, PROTECT LIFE AND PROPERTY, AND/OR ENFORCE THE LAW AND LEGAL ORDER PURSUANT TO THE PROVISIONS OF THE JOINT DOLE-DILG-PEZA GUIDELINES IN THE CONDUCT OF PNP PERSONNEL, ECONOMIC ZONE POLICE AND SECURITY GUARDS, COMPANY SECURITY GUARDS AND SIMILAR PERSONNEL DURING LABOR DISPUTES.



SECTION 19. CRIMINAL PROSECUTION. – The regular courts shall have jurisdiction over any criminal action under Article 272 of the Labor Code, AS AMENDED, BUT SUBJECT TO THE REQUIRED CLEARANCE FROM THE DOLE ON CASES ARISING OUT OF OR RELATED TO A LABOR DISPUTE PURSUANT TO THE MINISTRY OF JUSTICE (NOW DEPARTMENT OF JUSTICE) CIRCULAR NO. 15, SERIES OF 1982, AND CIRCULAR NO. 9, SERIES OF 1986.”

SECTION 2. REPEALING CLAUSE. – All rules, regulations, issuances, circulars and administrative orders inconsistent herewith are repealed or modified accordingly.

SECTION 3. EFFECTIVITY. – This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines, 29 March 2010.


MARIANITO D. ROQUE
Secretary

 Dept. of Labor & Employment
Office of the Secretary

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