

# CHANROBLES PUBLISHING COMPANY

## **DEPARTMENT ORDER NO. 009-97**

*May 1, 1997*

### **AMENDING THE RULES IMPLEMENTING BOOK V OF THE LABOR CODE AS AMENDED**

***Article I. The Rules implementing Book V of the Code are hereby amended to read as follows:***

#### **RULE I *Definition of Terms***

Section 1. Definition of terms.

- (a) “Department” means the Department of Labor and Employment. “Secretary” refers to the Head of the Department.
- (b) “Commission” means the National Labor Relations Commission or any of its divisions.
- (c) “Bureau” means the Bureau of Labor Relations and/or the Labor Relations Division in the Regional Offices of the Department.
- (d) “Board” means the National Conciliation and Mediation Board established under Executive Order No. 126.
- (e) “Code” means the Labor Code of the Philippines, as amended.
- (f) “Employer” includes any person acting in the interest of an employer, directly or indirectly. The term shall not include

any labor organization or any of its officers or agents except when acting as an employer.

- (g) “Employee” includes any person in the employ of a particular employer. The term shall not be limited to the employees of a particular employer, unless the Code so explicitly states. It shall include any individual whose work has ceased as a result of or in connection with any current labor dispute or because of any unfair labor practice if he has not obtained any other substantially equivalent and regular employment.
- (h) “Labor Organization” means any union or association of employees which exists in whole or in part for the purpose of collective bargaining or for dealing with employers concerning terms and conditions of employment.
- (i) “Legitimate Labor Organization” means any labor organization defined under letter (h) hereof which is duly registered with the Department. The term includes a local/chapter directly chartered by a federation or national union which has been duly reported to the Department in accordance with Rule VI, Section 2 of this Book.
- (j) “Workers Association” means any association of workers organized for the mutual aid and protection of its members or for any legitimate purpose other than collective bargaining.
- (k) “Independent Union” means any labor organization operating at the enterprise level whose personality is derived through an independent action for registration prescribed under Article 234 of the Code and Rule III, Section 2 of these Rules. An independent union may be affiliated with a federation, national or industry union, in which case it may also be referred to as an affiliate.
- (l) “Local Union/Chapter” means any labor organization operating at the enterprise level whose legal personality is derived through the issuance of a charter by a duly

registered federation or national union, subject to the reporting requirements prescribed in Rule VI, Section 1 of these Rules.

- (m) “National Union/Federation” means any labor organization with at least ten (10) locals/chapters or affiliates each of which must be a duly certified or recognized collective bargaining agent.
- (n) “Legitimate Workers’ Association” means any workers association defined under letter (j) hereof which is duly registered with the Department.
- (o) “Industry Union” means any group of legitimate labor organizations operating within an identified industry, organized for collective bargaining or for dealing with employers concerning terms and conditions of employment within an industry, or for participating in the formulation of social and employment policies, standards and programs in such industry, which is duly registered with the Department in accordance with Rule III, Section 2 of these Rules.
- (p) “Trade Union Center” means any group of registered national unions or federations organized for the mutual aid and protection of its members, for assisting such members in collective bargaining, or for participating in the formulation of social and employment policies, standards and programs, which is duly registered with the Department in accordance with Rule III, Section 2 of these Rules.
- (q) “Bargaining Unit” refers to a group of employees sharing mutual interests within a given employer unit comprised of all or less than all of the entire body of employees in the employer unit or any specific occupational or geographical grouping within such employer unit.
- (r) “Exclusive Bargaining Representative” means any legitimate labor organization duly recognized or certified as the sole

and exclusive bargaining agent of all the employees in a bargaining unit.

- (s) “Labor or Industrial Dispute” includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging terms and conditions of employment, regardless of whether or not the disputants stand in the proximate relationship of employers and employees.
- (t) “Managerial Employee” is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspended, layoff, recall, discharge, assign or discipline employees. “Supervisory Employee” is one who, in the interest of the employer, effectively recommends managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. All employees not falling within the definitions of managerial or supervisory employee are considered rank-and-file employees, for purposes of these Rules.
- (u) “Voluntary Arbitrator” means any person accredited by the Board as such, or any person named or designated in the collective bargaining agreement by the parties to act as their voluntary arbitrator, or one chosen, with or without the assistance of the Board, pursuant to a selection procedure agreed upon in the collective bargaining agreement.
- (v) “Strike” means any temporary stoppage of work by the concerted action of employees as a result of a labor or industrial dispute.
- (w) “Strike-Breaker” means any person who obstructs, impedes, or interferes by force, violence, coercion threats or intimidation with any peaceful picketing by employees during any labor controversy affecting wages, hours or

conditions of work or in the exercise of the right to self-organization or collective bargaining.

- (x) “Strike Area” means the establishment, warehouse, depots, plants or offices, including the sites or premises used as run-away shops of the employer struck against, as well as the immediate vicinity actually used by picketing strikers in moving to and fro before all points of entrance to and exit from said establishment.
- (y) “Lockout” means the temporary refusal of an employer to furnish work as a result of a labor or industrial dispute.
- (z) “Intra-Union Dispute” refers to any conflict between and among union members, and includes all disputes or grievances arising from any violation of or disagreement over any provision of the constitution and by-laws of a union, including cases arising from chartering or affiliation of labor organizations or from any violation of the rights and conditions of union membership provided for in the Code.
- (aa) “Inter-Union Dispute” refers to any conflict between and among legitimate labor organizations involving question of representation for purposes of collective bargaining. It also includes all other conflicts which legitimate labor organizations may have against each other based on any violations of their rights as labor organizations.
- (bb) “Appeal” means the elevation by an aggrieved party of any decision, order, or award of a lower body to a higher body, by means of a pleading which includes the assignment of errors, arguments in support thereof, and the reliefs prayed for. A mere notice of appeal, therefore, does not constitute the appeal as herein defined and understood, and shall not stop the running of the period for perfecting an appeal.
- (cc) “Perfection of an Appeal” includes the filing, within the prescribed period, of the memorandum of appeal

containing, among others, the assignment of error/s, arguments in support thereof, the reliefs sought and, in appropriate cases, posting of the appeal bond.

- (dd) “Certification Election” means the process of determining through secret ballot the sole and exclusive bargaining representative of the employees in an appropriate bargaining unit, for purposes of collective bargaining.
- (ee) “Consent Election” means the election voluntarily agreed upon by the parties, with or without the intervention of the Department, to determine the issue of majority representation of all the workers in the appropriate collective bargaining unit.
- (ff) “Run-Off Election” refers to an election between the labor unions receiving the two (2) highest number of votes when a certification election which provides for three (3) or more choices results in no choice receiving a majority of the valid votes cast; provided, that the total number of votes for all contending unions is at least fifty percent (50%) of the number of votes cast.
- (gg) “Election Proceedings” refer to the period during a certification, consent or run-off election or election of union officers starting from the opening to the closing of the polls, including the counting and tabulation of the votes, but excluding the period for the final determination of the challenged votes and the canvass thereof.
- (hh) “Organized Establishment” refers to a firm or company where there exists a recognized or certified exclusive bargaining agent.
- (ii) “Registration Proceedings” refer to proceedings involving the application for registration of a labor organization or a workers’ association.

- (jj) “Cancellation Proceedings” refer to the process leading to the revocation of the legal personality of a labor organization or a workers’ association after due process.
- (kk) “Hearing Officers” are officers authorized by the Secretary to hear and decide cases under Article 129 of the Code, as amended by Section 2 of Republic Act No. 6715, and whose decision is appealable to the Commission.
- (ll) “Union Accounts Examiners” are officers of the Bureau or in the Regional Offices assigned to conduct an audit of the books of accounts of a legitimate labor organization or workers association.
- (mm) “Election Officer” refers to an officer assigned by the Bureau or Regional Director to conduct and supervise certification elections and to provide assistance, whenever requested, in the conduct of election of union officers in accordance with Rules XI, XII and XIII of these Rules.
- (nn) “Term of Office” refers to the fixed period of five (5) years during which the duly elected officers of a labor organization shall discharge the functions of their office.
- (oo) “Cabo” refers to a person or group of persons or to a labor group which, in the guise of a labor organization, supplies workers to an employer, with or without any monetary or other consideration whether in the capacity of an agent of the employer or as an ostensible independent contractor.
- (pp) “Collective Bargaining Agreement” refers to the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work and all other terms and conditions of employment in a bargaining unit.
- (qq) “Med-Arbiter” is an officer in the Regional Office or in the Bureau authorized to hear, conciliate, mediate and decide representation cases, or to assist in the disposition of intra or inter-union disputes.



- (rr) “Conciliator-Mediator” is an officer of the Board whose principal function is to assist in the settlement and disposition of labor management disputes through conciliation and preventive mediation, including the promotion and encouragement of voluntary approaches to labor disputes prevention and settlement.

## **RULE II**

### ***Coverage of the Right to Self-Organization***

SECTION 1. Policy. It is the policy of the State to promote the free and responsible exercise of the right to self-organization through the establishment of a simplified mechanism for the speedy registration of labor organizations and workers’ associations, determination of representation status, and resolution of intra-and-inter-union disputes. Only legitimate or registered labor organizations or workers’ association shall have the right to represent their members for collective bargaining and other purposes.

SECTION 2. Who may join labor organizations. — All person employed in commercial, industrial and agricultural enterprises, including employees of government-owned or controlled corporations without original charters established under the Corporation Code, as well as employees of religious, charitable, medical or educational institutions whether operating for profit or not, shall have the right to self-organization and to form, join or assist labor organizations for purposes of collective bargaining, provided, however, that supervisory employees shall not be eligible for membership in a labor organization of the rank-and-file employees but may form, join or assist separate labor organizations of their own. Managerial employees shall not be eligible to form, join or assist any labor organization for purposes of collective bargaining. Alien employees with valid working permits issued by the Department may exercise the right to self-organization and join or assist labor organizations for purposes of collective bargaining if they are nationals of a country which grants the same or similar rights to Filipino workers, as certified by the Department of Foreign Affairs.



For the purpose of this Section, any employee, whether employed for a definite period or not, shall, beginning on the first day of his service, be eligible for membership in any labor organization.

SECTION 3. All other workers including ambulant, intermittent and other workers, the self-employed, rural workers and those without any definite employers may form workers associations for their mutual aid and protection and for other legitimate purposes.

### **RULE III** ***Registration of Labor Organizations***

SECTION 1. Where to file applications. — The application for registration of any federation, national or industry union or trade union center shall be filed with the Bureau. Where the application is filed with the Regional Office, the same shall be immediately forwarded to the Bureau within forty-eight (48) hours from filing thereof, together with all the documents supporting the registration.

The application for registration of an independent union shall be filed with and be acted upon by the Regional Office where the applicant's principal office is located.

The charter certificate issued by a federation or national union in creating a local/chapter, together with the supporting documents evidencing the establishment of such local/chapter, shall be filed with the Regional Office or the Bureau within thirty (30) days from the issuance of such charter certificate.

SECTION 2. Requirements for registration of labor organizations. —

(i) The application for registration of an independent union shall be supported by the following:

- (a) The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of workers who participated in such meetings;

- (b) The number of employees and names of all its members comprising at least twenty percent (20%) of the employees in the bargaining unit where it seeks to operate;
  - (c) If the applicant union has been in existence for one or more years, two copies of its annual financial reports, unless it has not collected any amount from the members, in which case a statement to this effect shall be included in the application; and
  - (d) Four copies of its constitution and by-laws, minutes of its adoption or ratification, and the list of the members who participated in it. However, the list of ratifying members shall be dispensed with where the constitution and by-laws was ratified or adopted during the organizational meeting referred to in paragraph (a) above. In such case, the factual circumstances of the ratification shall be recorded in the minutes of the organizational meeting.
- (ii) The application for registration of a federation or national union shall, in addition to sub-paragraphs (a), (c) and (d) of the immediately preceding paragraph, be supported by:
- (a) The resolution of affiliation of at least ten (10) locals/chapters or affiliates, each of which must be a duly recognized or certified bargaining representative in the establishment where it seeks to operate; and
  - (b) The names and addresses of the companies where the locals/chapters or affiliates operate and the list of all the members in each company involved.
- (iii) The application for registration of an industry or trade union center shall be supported by the following:
- (a) The list of its member organizations and their respective presidents and, in the case of an industry union, the industry where the union seeks to operate;

- (b) The resolution of membership of each member organization, approved by the Board of Directors of such union;
- (c) The name and principal address of the applicant, the names of its officers and their addresses, the minutes of its organizational meeting/s and the list of member organizations and their representatives who attended such meeting/s; and
- (d) A copy of its constitution and by-laws and minutes of its ratification by a majority of the presidents of the member organizations, provided that where the ratification was done simultaneously with the organizational meeting, it shall be sufficient that the fact of ratification be included in the minutes of the organizational meeting.

#### **RULE IV**

#### ***Registration of Workers Associations***

Section 1. Where to file applications. — The application for registration of a workers association whose place of operation is confined to one regional jurisdiction shall be filed directly and acted upon by the Regional Office where it operates. Otherwise, the application shall be filed and acted upon by the Bureau.

Section 2. Requirements for registration. — The application for registration of a workers association shall be supported by the following:

- (a) The names of its members, their addresses, the principal office of the applicant, the minutes of its organizational meeting/s, and the names of its individual members who attended such meetings;
- (b) A copy of its constitution and by-laws, duly ratified by a majority of its individual members;

- (c) In the case of any grouping of workers' associations, the requirements under Rule III, Section 2, No. III of these Rules shall apply.

## **RULE V**

### ***Provisions Common to the Registration of Labor Organizations and Workers' Associations***

Section 1. Attestation requirements. — The application for registration of any labor organization or workers' association, including all the accompanying documents, shall be verified under oath by its Secretary or Treasurer, as the case may be, and attested to by its President.

Section 2. Payment of registration fee. — A labor organization or workers' association shall be issued a certificate of registration upon payment of the prescribed registration fee.

Section 3. Action on applications. — The Regional Office or the Bureau, as the case may be, shall act on all applications for registration within thirty (30) days from filing thereof, either by approving the application and issuing the certificate of registration, or denying the application for failure of the applicant to comply with the requirements for registration. Where the documents supporting the application are not complete or do not contain the requisite attestation requirements, the Regional Office or the Bureau shall, within five (5) days from receipt of the application, notify the applicant in writing of the requirements needed to complete the application. Where the applicant fails to complete the requirements within thirty (30) days from receipt of notice, the application shall be denied without prejudice.

Section 4. Denial of registration, grounds for appeal. — The decision of the Regional Office or the Bureau denying the application for registration shall be in writing, stating in clear terms the reasons therefor. A copy thereof shall be furnished the applicant union. The decision may be appealed to the Bureau if the denial is by the Regional Director, or to the Secretary if the denial is by the Bureau, within ten (10) days from receipt of notice thereof, on the ground of grave abuse of discretion or violation of these Rules.

The appeal shall be filed in the Regional Office or in the Bureau, as the case may be, which shall cause the transmittal of the records to the Bureau or to the Secretary within five (5) calendar days from receipt of the appeal.

The Bureau or the Secretary shall decide the appeal with twenty (20) calendar days from receipt of the records of the case.

Section 5. Effect of registration. — The labor organization or worker's association shall be deemed registered and vested with legal personality on the date of issuance of its certificate of registration. Such legal personality cannot thereafter be subject to collateral attack, but may be questioned only in an independent petition for cancellation in accordance with these Rules.

## **RULE VI**

### ***Chartering and Affiliation of Labor Organizations and Workers' Associations***

Section 1. Chartering and creation of a local/chapter. — A duly registered federation or national union may directly create a local/chapter by submitting to the Regional Office or to the Bureau two (2) copies of the following:

- (a) A charter certificate issued by the federation or national union indicating the creation or establishment of the local/chapter;
- (b) The names of the local/chapter's officers, their addresses, and the principal office of the local/chapter; and
- (c) The local/chapter's constitution and by-laws; provided that where the local/chapter's constitution and by-laws is the same as that of the federation or national union, this fact shall be indicated accordingly.

All the foregoing supporting requirements, shall be certified under oath by the Secretary or the Treasurer of the local/chapter and attested to by its President.

Section 2. Chartering by a workers association. — A duly registered workers' association may likewise charter any of its branches, subject to the filing of the documents prescribed under the immediately preceding section.

Section 3. Acquisition of legal personality by local/chapter. — A local/chapter constituted in accordance with Section 1 of this Rule shall acquire legal personality from the date of filing of the complete documents enumerated therein. Upon compliance with all the documentary requirements, the Regional Office or Bureau shall issue in favor of the local/chapter a certificate indicating that it is included in the roster of legitimate labor organizations.

Section 4. Affiliation of independent union. — An independent union shall be considered an affiliate of a federation or national or industry union upon filing by the latter to the Regional Office or Bureau of two (2) copies each of verified resolution of affiliation, ratified by a majority of the members of the former, and a resolution of acceptance by the latter.

## **RULE VII**

### ***Reporting Requirements of Labor Organizations and Workers' Associations***

Section 1. Reporting requirements. — It shall be the duty of every legitimate labor organization and workers' association to submit to the Regional Office or the Bureau two (2) copies each of the following:

- (a) Any amendments to its constitution and by-laws and the minutes of adoption or ratification of such amendments, within thirty (30) calendar days from its adoption or ratification;
- (b) Annual financial reports within thirty (30) calendar days after the close of each fiscal year;
- (c) Updated list of newly-elected officers, together with the appointive officers or agents who are entrusted with the handling of funds, within thirty (30) calendar days after each regular or special election of officers, or from the

occurrence of any change in the officers or agents of the labor organization or workers/association; and

- (d) Updated list of individual members, locals/chapters, affiliates or branches, as the case may be, within thirty (30) calendar days after the close of each fiscal year.

As understood in these Rules, the fiscal year of a labor organization or workers' association shall coincide with the calendar year, unless a different period is prescribed in its constitution and by-laws.

## **RULE VIII**

### ***Cancellation of Registration of Labor Organizations and Workers' Associations***

SECTION 1. Venue of action. — If the respondent to the petition is a local/chapter, affiliate, or a workers' association with operations limited to one region, the petition shall be filed with the Regional Office having jurisdiction over the place where the respondent principally operates. Petitions filed against federations, national or industry unions, trade union centers, or workers' associations operating in more than one regional jurisdiction, shall be filed with the Bureau.

SECTION 2. Who may file; form and contents of petition. — Any party-in-interest may commence a petition for cancellation of registration, except in actions involving violations of Article 241 which can be commenced only by members of the respondent labor organization or workers' association.

The petition shall be under oath and shall state clearly and concisely the facts and grounds relied upon, accompanied by proof of service that a copy thereof has been furnished the respondent.

SECTION 3. Cancellation of registration; nature and grounds. — Subject to the requirements of notice and due process, the registration of any legitimate organization or workers' association may be cancelled by the Bureau or the Regional Office upon the filing of an independent petition for cancellation based on any of the following grounds:



- (a) Failure to comply with any of the requirements prescribed under Articles 234, 237 and 238 of the Code;
- (b) Violation of any of the provisions of Article 239 of the Code;
- (c) Commission of any of the acts enumerated under Article 241 of the Code; provided, that no petition for cancellation based on this ground may be granted unless supported by at least thirty (30%) of all the members of the respondent labor organization or workers' association.

SECTION 4. Action on the petition; appeals. — The Regional or Bureau Director, as the case may be, shall have thirty (30) days from submission of the case for resolution within which to resolve the petition. The decision of the Regional or Bureau Director may be appealed to the Bureau or the Secretary, as the case may be, within ten (10) days from receipt thereof by the aggrieved party on the ground of grave abuse of discretion or any violation of these Rules.

The Bureau or the Secretary shall have fifteen (15) days from receipt of the records of the case within which to decide the appeal. The decision of the Bureau or the Secretary shall be final and executory.

SECTION 5. Revocation of legal personality of local/chapter. — In addition to the grounds for cancellation enumerated in the immediately preceding section, a federation, national union or workers' association may revoke the charter issued to a local/chapter or branch by serving on the latter a verified notice of revocation, copy furnished the Bureau, on the ground of disloyalty or such other grounds as may be specified in the constitution and by-laws of the federation, national union or workers' association. The revocation shall divest the local/chapter of its legal personality upon receipt of the notice by the Bureau unless in the meantime the local/chapter has acquired independent registration in accordance with these Rules.

SECTION 6. Effect of cancellation of registration of federation or national union on locals/chapters. — The cancellation of registration of a federation or national union shall operate to divest its locals/chapters of their status as legitimate labor organizations,

unless the locals/chapters are covered by a duly registered collective bargaining agreement. In the latter case, the locals/chapters shall be allowed to register as independent unions, failing which they shall lose their legitimate status upon the expiration of the collective bargaining agreement.

## **RULE IX**

### ***Determination of Representation Status***

SECTION 1. Policy. — It is the policy of the State to promote free trade unionism through expeditious procedures governing the choice of an exclusive bargaining representative. The determination of such exclusive bargaining representative is a non-litigious proceeding and, as far as practicable, shall be free from technicalities of law and procedure, provided only that in every case, the exclusive bargaining representative enjoys the majority support of all the employees in the bargaining unit.

SECTION 2. Determination of representation status; modes. — The determination of an exclusive bargaining representative shall be through voluntary recognition in cases where there is only one legitimate labor organization operating within the bargaining unit, or through certification, run-off or consent election as provided for in this Book.

## **RULE X**

### ***Voluntary Recognition***

SECTION 1. Requirements for voluntary recognition. — In unorganized establishments, the employer may voluntarily recognize the representation status of a union. Within thirty (30) days from recognition, the employer representative and union president shall submit to the Regional Office a joint statement attesting to the fact of voluntary recognition, which shall also include the following:

- (a) Proof of posting of the joint statement of voluntary recognition for fifteen (15) consecutive days in two (2) conspicuous places of the establishment or bargaining unit where the union seeks to operate;

- (b) The approximate number of employees in the bargaining unit, accompanied by the names and signatures of at least a majority of the members of the bargaining unit supporting the voluntary recognition; and
- (c) A statement that there is no other legitimate labor organization operating within the bargaining unit.

The joint statement shall be under oath.

SECTION 2. Effect of voluntary recognition. — Within twenty-four (24) hours upon submission of all the aforementioned documents, the Regional Office shall enter the fact of voluntary recognition into the records of the union, copy of such entry immediately furnished the Bureau. From the time of recording, the union shall enjoy the rights, privileges and obligations of an exclusive bargaining representative.

## **RULE XI**

### ***Certification Elections***

SECTION 1. Who may file. — Subject to the provisions of this Rule, any legitimate labor organization or any employer, when requested to bargain collectively and the status of the union is in doubt, may file a petition for cancellation election.

SECTION 2. Where to file. — A petition for certification may be filed with the Med-Arbitrator through the Regional Office which has jurisdiction over the principal office of the employer or where the bargaining unit is principally situated.

Where two or more petitions involving the same bargaining unit are filed in one Regional Office, the same shall be automatically consolidated. Where these petitions are filed in different Regional Offices, the Regional Office which first acquires jurisdiction over the case shall exclude the others, in which case the latter shall endorse the petition to the former for consolidation.

SECTION 3. When to file. — In the absence of a collective bargaining agreement duly registered in accordance with Article 231 of the Code, a petition for cancellation election may be filed at any

time. However, no certification election may be filed within one year from the date of a valid certification, consent or run-off election or from the date of voluntary recognition in accordance with Rule X of these Rules; provided, that where an appeal has been filed on the order of the Med-Arbitrator certifying the results of the election, the running of the one year period shall be suspended until the decision on the appeal shall have become final and executory.

Neither may a representation question be entertained if, before the filing of a petition for a cancellation election, the duly recognized or certified union has commenced negotiations with the employer in accordance with Article 250 of the Code within the one-year period referred to in the immediately preceding paragraph, or a bargaining deadlock to which an incumbent or certified bargaining agent is a party had been submitted to conciliation or arbitration or had become the subject of valid notice of strike or lockout. If a collective bargaining agreement has been duly registered in accordance with Article 231 of the Code, a petition for certification election or a motion for intervention can only be entertained within sixty (60) days prior to the expiry date of such agreement.

SECTION 4. Form and contents of petition. — The petition shall be in writing and under oath and shall contain, among others, the following:

- (a) The name of petitioner, its address, and affiliation if appropriate, the date of its registration and number of its certificate of registration if petitioner is a federation, national union or independent union, or the date it was reported to the Department if it is a local/chapter;
- (b) The name, address and nature of the employer's business;
- (c) The description of the bargaining unit;
- (d) The approximate number of employees in the bargaining unit;
- (e) The names and addresses of their legitimate labor organizations in the bargaining unit;

- (f) A statement indicating any of the following circumstances:
  - i) that the bargaining unit is unorganized or that there is no registered collective bargaining agreement covering the employees in the bargaining unit;
  - ii) if there exists a duly registered collective bargaining agreement, that the petition is filed within the sixty-day freedom period of such agreement; or
  - iii) if another union had been previously certified in a valid certification, consent or run-off election or voluntarily recognized in accordance with Rule X of these Rules, that the petition is filed outside the one-year period from such certification or run-off election and no appeal is pending thereon, or from the time the fact of recognition was entered into the records of such union.
- (g) In an organized establishment, the signatures of at least twenty-five (25%) percent of all employees in the appropriate bargaining unit which shall be attached to the petition at the time of its filing; and
- (h) Other relevant facts.

When the petition is filed by an employer, it shall contain, among others:

- (a) The name, address and general nature of the employer's business;
- (b) Names and addresses of the legitimate labor organizations involved;
- (c) The approximate number of the employees in the appropriate bargaining unit;
- (d) A description of the bargaining unit; and
- (e) Other relevant facts.

SECTION 5. Assignment of the case. — Within twenty-four (24) hours from receipt of the petition, the Regional Director shall assign the case to a Med-Arbiter, who shall immediately cause the posting of the petition in two conspicuous places where the petitioner seeks to operate and the issuance of summons to all parties named in the petition, indicating the first hearing and ordering the parties to appear therein.

SECTION 6. Forced Intervenor. — The incumbent bargaining agent shall automatically be one of the choices in the certification election as forced intervenor.

SECTION 7. Motions for intervention; when proper. — When a petition for certification election had been filed in an organized establishment, any legitimate labor organization other than the incumbent bargaining agent operating within the bargaining unit may file a motion for intervention with the Med-Arbiter during the freedom period of the collective bargaining agreement. The form and contents of the motion shall be the same as that of a petition for certification election.

In an unorganized establishment, the motion shall be filed at any time prior to the finality of the decision calling for a certification election. The form and contents of the petition shall likewise be the same as that of a petition for certification election. If the motion is found sufficient in form and substance, the Med-Arbiter shall, within five (5) days from receipt thereof but in any event prior to the holding of the election if such had been scheduled, order the inclusion of the movant as one of the choices, and the original decision shall be amended accordingly. The order of the Med-Arbiter resolving the motion shall not be subject to reconsideration or appeal. Any motion for reconsideration or appeal so filed shall not stay the holding of the certification or consent election, but nevertheless shall form part of the records of the case.

SECTION 8. Hearings; purpose. — The Med-Arbiter may conduct hearings with the view of: (a) arriving at a stipulation of facts; (b) determining the parties to the election; (c) getting the parties to agree to a consent election; (d) asking clarification questions; and (e) defining or limiting the issues. The Med-Arbiter shall have control of

the proceedings, Postponements or continuances shall, as a matter of policy, be discouraged.

In case the contending unions agree to a consent election, the Med-Arbiter shall not issue a formal order calling for the conduct of an election, but shall enter the fact of the agreement in the minutes of the hearing and shall cause the immediate scheduling of the pre-election conference. The minutes of the hearing shall be signed by the parties and attested to by the Med-Arbiter.

SECTION 9. Answer. — If the contending unions fail to agree to a consent election during the first hearing, the Med-Arbiter shall in the same hearing direct all concerned parties, including the employer, to simultaneously submit their respective position papers within a non-extendible period of ten (10) days. The position papers shall specifically address the issues identified during the hearing, and shall include all arguments and evidence as the parties may deem relevant in the disposition of the case. All arguments not so raised are deemed waived. Upon the expiration of the ten-day period, the petition shall be deemed submitted for resolution, with or without position papers submitted by the parties.

SECTION 10. Failure to appear despite notice. — The failure of any party to appear twice despite notice, whether consecutive or not, shall be deemed a waiver of its right to be heard, in which case the Med-Arbiter shall proceed to resolve the petition on the basis of available records.

SECTION 11. Action on the petition. — The Med-Arbiter shall have twenty (20) working days from submission of the case for resolution within which to grant or dismiss the petition.

- I. A decision granting the petition shall state the following:
  - (a) The name of the employer or the establishment;
  - (b) The description of the bargaining unit;
  - (c) The names of the contending unions which shall appear in the following order;



- i) Petitioner union or, in case of two or more petitioners, in the order in which the petitions were filed;
- ii) forced intervenor; and
- iii) other intervenors.

The decision shall also include a directive for the employer to submit within ten (10) days from receipt of the decision, the certified list of employees in the bargaining unit, or where necessary, the payrolls covering the members of the bargaining unit for the last three (3) months immediately preceding the issuance of the decision. In the event the employer does not submit the list or payrolls as the case may be, the union may submit its own list.

In a petition filed by a legitimate labor organization involving an unorganized establishment, the Med-Arbitrator shall, pursuant to Article 257 of the Code, automatically order the conduct of a certification election after determining that the petition has complied with all the requirements enumerated under Sections 1, 2 and 4 hereof, and that none of the grounds for dismissal enumerated in the immediately succeeding paragraph exists.

II. The Med-Arbitrator shall dismiss the petition on any of the following grounds:

(a) The petitioner is not listed by the Regional Office or Bureau in its registry of legitimate labor organizations, or that its legal personality has been revoked or cancelled with finality in accordance with Rule VIII of these Rules;

(b) The petition was filed before or after the freedom period of a duly registered collective bargaining agreement; provided, that the sixty-day freedom period based on the original collective bargaining agreement shall not be affected by any amendment, extension or renewal of the collective bargaining agreement.

(c) The petition was filed within one (1) year from a valid certification, consent or run-off election and no appeal on the results is pending thereon, or from recording of the fact of voluntary recognition with the Regional Office;

(d) duly recognized or certified union has commenced negotiations with the employer in accordance with Article 250 of the Code within the one-year period referred to in Section 3, Rule XI of these Rules, or there exists a bargaining deadlock which had been submitted to conciliation or arbitration or had become the subject of a valid notice of strike or lockout to which an incumbent or certified bargaining agent is a party;

(e) In case of an organized establishment, failure to submit the twenty-five percent (25%) support requirement upon the filing of the petition; or

(f) Lack of interest or withdrawal on the part of the petitioner; provided, that where a motion for intervention has been filed during the freedom period, said motion shall be deemed and disposed of as an independent petition for certification election if it complies with all the requisites for the filing of a petition for certification election as prescribed in Section 4 of these Rules.

**SECTION 12. Appeal; finality of decision.** — The decision of the Med-Arbiter may be appealed to the Secretary for any violation of these Rules. Interlocutory orders issued by the Med-Arbiter prior to the grant or denial of the petition including orders granting motions for intervention issued after an order calling for a certification election, shall not be appealable. However, any issue arising therefrom may be raised in the appeal on the decision granting or denying the petition.

The appeal shall be under oath and shall consist of a memorandum of appeal specifically stating the grounds relied upon by the appellant with the supporting arguments and evidence. The appeal shall be deemed not filed unless accompanied by proof of service thereof to appellee.

**SECTION 13. Where to file appeal.** — The appellant shall file its appeal with the Regional Office where the case originated.

SECTION 14. Period to reply. — The appellee shall file its reply thereto within ten (10) calendar days from receipt of a copy of the appeal. The Regional Office shall, within five (5) calendar days from receipt of the reply, forward, the entire records of the case to the Office of the Secretary.

Where no appeals is filed within the ten-day period, the Med-Arbitrator shall transmit the entire records of the case entering therein the fact that the decision has become final and executory to the Regional Director for appropriate disposition.

SECTION 15. Decision of the Secretary final and executory. — The Secretary shall have fifteen (15) calendar days within which to decide the appeal from receipt of the records of the case. The filing of the appeal from the decision of the Med-Arbitrator stays the holding of any certification election. The decision of the Secretary shall be final and executory.

Upon the finality of the decision of the Secretary affirming the decision to conduct a certification election, the entire records of the case shall be remanded to the office of origin for implementation of the decision. The implementation shall not be stayed unless restrained by the appropriate court.

SECTION 16. Effects of consent action. — Where a petition for certification election had been filed and, upon the intercession of the Med-Arbitrator, the parties agree to hold a consent election, the results thereof shall constitute a bar to the holding of a certification election for one year from the holding of such consent election, subject to Section 17 of the Rules. Where no petition for certification election had been filed but the parties themselves have agreed to hold a consent election, the results thereof shall not constitute a bar to another certification election, unless the winning union had been extended voluntary recognition in accordance with Rule X of these Rules.

SECTION 17. Failure of election; effects. — Where the total number of valid votes cast in a certification or consent election is less than the majority of all the eligible employees in the bargaining unit, there

shall be a failure of election. Such failure of election shall not bar the filing of a petition for the immediate holding of another certification or consent election.

SECTION 18. Effects of early agreements. — The representation case shall not be adversely affected by a collective bargaining agreement registered before or during the last sixty (60) days of a subsisting agreement or during the pendency of the representation case.

SECTION 19. Motions for inhibitions. — No motions for inhibition of the Med-Arbiter shall be entertained from any party unless the same is verified and based on specific grounds or circumstances directly related to or arising from the dispute under consideration.

Inhibition shall be discretionary on the Med-Arbiter concerned. Within twenty-four (24) hours from receipt thereof, the Med-Arbiter shall deny the motion, which denial shall not be appealable, or grant the same by returning the entire records of the case to the Regional Director, specifically stating his reasons for inhibition.

Within twenty-four (24) hours from return of the records, the Regional Director shall assign the case to another Med-Arbiter. Where there is no other Med-Arbiter in the Regional Office, the Regional Director shall transmit the entire records of the case to the Bureau, which shall immediately assign the case to any Med-Arbiter from any of the Regional Offices or from the Bureau.

SECTION 20. Non-Availability of Med-Arbiter. — Where there is no Med-Arbiter available in the Regional Office by reason by vacancy, prolonged absence, or excessive volume of workload as determined by the Regional Director, the petition shall be disposed of in accordance with the last paragraph of the immediately preceding section. The Regional Office shall notify all parties of such action.

## **RULE XII**

### ***Conduct of Certification Elections***

SECTION 1. Pre-election conference. — Within twenty-four (24) hours from receipt from the Med-Arbiter of the final decision for the conduct of a certification election, or from the remand of the records

of the case from the Office of the Secretary, the Regional Director shall assign the case to an election officer for the conduct of a pre-election conference.

The pre-election conference shall set the mechanics for the election and shall determine, among others, the following: (a) list of qualified voters; (b) the date, time and place of the election; (c) the names of watchers and representatives; (d) the number and location of polling places or booths; and (e) the number of ballots to be prepared.

The failure of any party to appear during the pre-election conference, despite notice, shall be construed as a waiver to be represented and to question or object to any agreement reached in said pre-election conference. Nothing herein, however, shall deprive the non-appearing party of its right to be furnished notices of subsequent pre-election conferences and to attend the same.

**SECTION 2. Qualification of voters; inclusion-exclusion proceedings.** — All employees who are members of the appropriate bargaining unit sought to be represented by the petitioner at the time of the certification or consent election shall be qualified to vote. A dismissed employee whose dismissal is being contested in a pending case shall be allowed to vote in the election.

In case of disagreement over the voters' list or over the eligibility of voters, all contested voters shall be allowed to vote. However, their votes shall be segregated and sealed in individual envelopes in accordance with Section 9 of these Rules.

**SECTION 3. Election conducted during regular business day.** — The election shall be set during regular business day of the company unless otherwise agreed upon by the parties. It shall be held within company premises unless circumstances otherwise require, as determined by the election officer.

**SECTION 4. Posting of notices.** — The Regional Office shall cause the posting of notice of election at least five (5) working days before the actual date thereof in two most conspicuous places in the company premises. The notice shall contain the date and time of the election, names of all contending unions, the description of the

bargaining unit and the list of eligible voters. The five-day period for posting of notice and the list of eligible voters may be waived upon the written agreement of the parties.

SECTION 5. Secrecy and sanctity of the ballot. — To ensure the secrecy of the ballot, the election officer, together with the authorized representatives of the contending parties, shall, before the start of the actual voting, inspect the polling place, the ballot boxes, and the polling booths. After the examination of each ballot box, the election officer shall seal each with three padlocks. The key to each padlock shall be kept individually by the election officer, the representative of the labor organization, and the representative employer. If more than one union is involved, the holder of the key for the labor organization shall be determined by drawing of lots. All keys shall remain in the possession of the election officer and the representatives during the entire proceedings and until all the controversies concerning the opening of the ballot box shall have been resolved. Where the representative of the employer or labor organization is not present or has lost a key at the time of opening of the ballot box, the election officer shall have the authority to break open the box. The circumstances under which this authority is exercised shall be reflected in the minutes of the proceedings.

SECTION 6. Preparation of ballots. — For the guidance of the voters, ballots shall be prepared in Filipino and English with a translation in the local dialect, if necessary.

SECTION 7. Marking of votes. — The voter must put a cross (x) or a check (/) mark in the square opposite the name of the union of his choice. If only one union is involved, the voter shall make his cross or check mark in the square indicating “yes” or “no”.

If a ballot is torn, marked, defaced, or left unfilled in such a manner as to create doubt or confusion or to identify the voter, it shall be considered spoiled. If the voter inadvertently spoils a ballot, he shall return it to the election officer who shall destroy it and give him another ballot.

SECTION 8. Keeping of minutes. — The election officer shall keep minutes of the entire proceedings, including therein all events and



circumstances relevant to the election. Upon completion of the entire proceedings, the representatives of the parties shall sign the minutes and be furnished copies thereof. Where the representatives are not present or refuse to sign the minutes, this fact shall be duly noted by the election officer.

SECTION 9. Challenging of votes. — An authorized representatives of any of the contending parties may challenge a vote before it is deposited in the ballot box only on any of the following grounds:

- (a) That there is no employer-employee relationship between the voter and the company; and
- (b) That the voter is not a member of the appropriate bargaining unit which petitioner seeks to represent.

When a vote is properly challenged, the election officer shall place the ballot in an envelope which shall be sealed in the presence of the voter and the representatives of the parties. The election officer shall indicate on the envelope the voter's name, the party challenging the voter, and the ground for the challenge. The sealed envelope shall then be signed by the election officer and the representatives of all the parties. The election officer shall note all challenges in the minutes of the election and shall be responsible for consolidating all envelopes containing the challenged votes. The envelopes shall be opened and the question of eligibility shall be passed upon only if the number of segregated voters will materially alter the results of the election.

SECTION 10. On-the-spot questions. — The election officer may rule on any question relating to and raised during the conduct of the election. In no case, however, shall the election officer rule on any of the grounds for challenge specified in the immediately preceding section.

SECTION 11. Protest; when perfected. — Any party-in-interest may file a protest based on the conduct or mechanics of the election. Such protests shall be recorded in the minutes of the proceedings. Protests not so raised are deemed waived.



The protesting party must formalize its protest with the Med-Arbitrator, with specific grounds, arguments and evidence therefor, within five (5) days after the close of the proceedings. If not recorded in the minutes and formalized within the prescribed period, the protest shall be deemed dropped.

SECTION 12. Canvassing of votes; when election is valid. — As soon as the polls close, the votes cast shall be counted and tabulated by the election officer in the presence of the representatives of the parties. Upon completion of the canvassing, the election officer shall give each representative a copy of the minutes of the election including the results thereof. The ballots and the tally sheets shall be sealed in an envelope and signed by the election officer and by the representative of the contending parties and shall remain under the custody of the election officer.

The union which obtained a majority of the valid votes cast shall be certified as the sole and exclusive bargaining agent of all the workers in the appropriate bargaining unit. However, in order to have a valid election, at least a majority of all eligible voters in the appropriate bargaining unit must have cast their votes.

SECTION 13. Proclamation and certification of results by election officer; when proper. — Upon completion of the canvass and there being a valid election, the election officer shall proclaim and certify as winner the union which obtained a majority of the valid votes cast under any of the following conditions:

- a) No protest had been filed or, even if one was filed, the same was not perfected within the five-day period for perfection of the protest; and
- b) No challenge or eligibility issue was raised or, even if one was raised, the resolution of the same will not materially change the result.

For this purpose, the election officer shall immediately issue the corresponding certification, copy furnished all parties, which shall form part of the records of the case. The winning union shall have the rights, privileges and obligations of a duly certified collective

bargaining representative from the time the certification is issued. The proclamation and certification so issued shall not be appealable.

SECTION 14. Proclamation and certification by Med-Arbiter; when proper. — When a protest has been perfected or any challenge or eligibility issue has been raised which, if resolved, can materially change the result, only the Med-Arbiter can proclaim and certify the winner. In such cases, the election officer shall, immediately after the lapse of five (5) days from completion of canvass, return the records of the case to the Med-Arbiter, together with the minutes and the results of the election.

The Med-Arbiter shall have twenty (20) days within which to issue an order certifying the result of the election. Any protest, eligibility issue, or such other questions that may have been raised during the election proceedings shall likewise be disposed of by the Med-Arbiter in the same order.

SECTION 15. Appeal; finality of decision. — The decision of the Med-Arbiter may be appealed to the Secretary within ten (10) days from receipt by the parties of a copy thereof, only on the grounds of violation of Section 9 hereof or of serious errors of fact or law in the resolution of a protest.

The appeal shall be under oath and shall consist of a memorandum of appeal specifically stating the grounds relied upon by the appellant with the supporting arguments and evidence. The appeal shall be deemed not filed unless accompanied by proof of service thereof to appellee. The decision of the Secretary on the appeal shall be final and executory.

Where no appeal is filed within the ten-day period, the decision shall become final and executory and the Med-Arbiter shall enter this fact into records of the case.

SECTION 16. Where to file the appeal. — The appellant shall file its appeal with the Regional Office where the case originated.

SECTION 17. Period to reply. — The appellee shall file its reply thereto within ten (10) days from receipt of a copy of the appeal. The

Regional Office shall, within five (5) days from receipt of the reply, forward the entire records of the case to the Office of the Secretary. Where no reply is received by the Regional Office within twenty (20) days when such reply should have been filed, the Regional Office shall likewise forward the entire records of the case to the Office of the Secretary.

SECTION 18. Motion to postpone does not stay election. — The filing of a motion to postpone shall not stay the holding of the election.

### **RULE XIII** ***Run-Offs***

SECTION 1. Run-off election. — When an election which provides for three (3) or more choices results in no choice receiving a majority of the valid votes cast, and no objections or challenges have been presented which, if sustained, can materially change the results, the election officer shall motu proprio conduct a run-off election within five (5) calendar days from the close of the election proceedings between the labor unions receiving the two highest number of votes; provided, that the total number of votes for all contending unions is at least fifty percent (50%) of the number of votes cast.

The voters' list to be used in the run-off election shall be the same list as that used in the first election. The ballots in the run-off election shall provide as choices the unions receiving the highest and the second highest number of the votes cast. The union receiving the greater number of valid votes cast shall be certified as the winner, subject to the applicable provisions of Rule XII of this Book.

### **RULE XIV** ***Intra-Union Disputes***

SECTION 1. Complaint; who may file. — Any member of a union may file with the Regional Director a complaint for any violation of the constitution and by-laws and the rights and conditions of membership under Article 241 of the Code. However, if the issue involves the entire membership of the union, the complaint shall be supported by at least thirty percent (30%) of the members of the federation, national union, local/chapter, affiliate or independent

union, as the case may be, at the time of the filing thereof. Such complaint shall be filed in the Regional Office where the union is domiciled.

SECTION 2. Contents of complaint. — The complaint shall, among others, contain the following:

- (a) The person or persons charged;
- (b) The specific violation/s committed;
- (c) The relief/s prayed for; and
- (d) Other relevant matters.

Such complaint must be in writing and under oath, and a copy thereof served on the respondent.

In addition to the above requirement, the petition on its face must show that the administrative remedies provided for in the constitution and by-laws have been exhausted or such remedies are not readily available to the complaining members through no fault of their own.

SECTION 3. Procedure. — Within twenty-four (24) hours from receipt of the complaint, the Regional Director shall immediately assign the case to a Med-Arbiter or appropriate officer of the Labor Relations Division for conciliation or hearings as may be appropriate. Within ten (10) days from receipt of the assignment, it shall be mandatory upon such officer to conduct a conciliation conference and to exert every effort to effect an amicable settlement.

Where no amicable settlement is reached, the officer concerned shall use the mandatory conference as a venue to limit the issues, ask clarificatory questions, or convince the parties to agree on a stipulation of facts. In every case, the officer concerned shall keep minutes of the conference, signed by and copy furnished the parties.

Thereafter, the parties shall be given ten (10) days within to which to submit their respective position papers addressing all relevant issues and consolidating all their arguments and evidences, after which the case shall be deemed submitted for resolution.

The Regional Director shall have twenty (20) working days from submission of the case for resolution within which to settle or decide the case. The decision shall state the facts and the reliefs granted, if any. If the dispute involves a violation of the rights and conditions of membership enumerated under Article 241 of the Code, the Regional Director may, if specifically prayed for in the complaint and supported with substantial evidence, order the cancellation of the registration certificate of the erring union or the expulsion of the guilty party from the union, whichever is appropriate; provided, however, that no cancellation shall be ordered unless the complaint is supported by at least thirty percent (30%) of the union membership.

SECTION 4. Appeal; finality of decision. — The decision of the Regional Director may be appealed to the Bureau by the aggrieved party within ten (10) calendar days from receipt thereof, for grave abuse of discretion or any violation of these Rules.

The appeal shall be under oath, and shall consist of a memorandum of appeal specifically stating the grounds relied upon by the appellant with the supporting arguments and evidence. The appeal shall be deemed not filed unless accompanied by proof of service of a copy thereof to the appellee.

Where no appeal is filed within the ten-day period, the decision shall become final and executory, and the Regional Office shall enter this fact into the records of the case.

SECTION 5. Where to file appeal. — The appellant shall file its appeal with the Regional Office where the case originated.

SECTION 6. Period to reply. — The appellee shall file its reply thereto within ten (10) days from receipt of a copy of the appeal. The Regional Office shall, with five (5) days from receipt of the reply, forward the entire records of the case to the Bureau. Where no reply is received by the Regional Office within twenty (20) days when such reply should have been filed, the Regional Office shall likewise forward the entire records of the case to the Bureau.

SECTION 7. Decision of the Bureau final and executory. — The Bureau shall have fifteen (15) calendar days within which to decide

the appeal from receipt of the records of the case. The decision of the Bureau shall be final and executory.

SECTION 8. Execution pending appeal. — The execution of the order of the Regional Director shall automatically be stayed pending appeal.

**RULE XV**  
***Election of Officers of Labor Organizations and Workers’  
Associations***

SECTION 1. Committee on election; constitution. — In the absence of any agreement among the members or any provision in the constitution and by-laws of the labor organization or workers association, the following guidelines may be adopted in the election of officers:

- a) Within sixty (60) days before the expiration of the term of the incumbent officers, the president of the labor organization or workers association shall constitute a committee on election to be composed of at least three (3) members who are not running for any position in the election, provided that if there are identifiable parties within the organization or association, each party shall have equal representation in the committee.
- b) Upon constitution, the members shall elect the chairman of the committee from among themselves. In case of disagreement, the president shall designate the chairman. In case of an election the conduct of which was ordered by the Regional Director, the chairman of the committee shall be a representative of the Labor Relations Division of the Regional Office.

SECTION 2. Powers and duties of the committee. Within ten (10) days from its constitution, the committee shall, among others, exercise the following powers and duties:

- a) Set the date, time and venue of the election;
- b) Prescribe rules on the qualification and eligibility of candidates and voters;

- c) Prepare and post in the voters' list and the list of qualified candidates;
- d) Accredit the authorized representatives of the contending parties;
- e) Supervise the actual conduct of the election and canvass the votes to ensure the sanctity of the ballot;
- f) Keep minutes of the proceedings;
- g) Be the final arbiter of all election protests;
- h) Proclaim the winners; and
- i) Prescribe such other rules as may facilitate the orderly conduct of the election.

SECTION 3. Counting of votes. — As soon as the polls close, the committee shall canvass the votes in the presence of the authorized representatives of the parties; provided, however, that the absence of such authorized representatives shall not be a ground for suspending the canvassing of ballots.

SECTION 4. Protests. — At any time prior to the close of election proceedings, any party may file a protest with the committee for any violation of the rules prescribed in the election. All protests shall be entered in the minutes of election proceedings. The committee shall endeavor to settle or resolve all protests amicably, during or immediately after the close of election proceedings.

SECTION 5. Proclamation. — Immediately after the canvassing of the ballots, and there being no unresolved protest which, if resolved can materially change the results, the committee shall declare the winners of the election.

Any protest left unresolved after the close of the election proceedings shall be resolved by the committee within five (5) days. Within this period, the committee may allow the protestant and all oppositors to be heard or to submit their position papers. Otherwise, the committee shall resolve the protest on the basis of the minutes of the proceedings.



Upon resolution of the protest, the committee shall immediately proclaim the winners and the latter may assume their positions immediately.

SECTION 6. Protests and petitions for annulment of election results. — Protest or petitions for annulment of the result of an election shall be filed with and acted upon by the Regional Director in accordance with the provisions prescribed in Rule XIV of this Book. No protest or petition shall be entertained by the Regional Director unless the issue raised has been resolved by the committee.

## **RULE XVI**

### ***Registration of Collective Bargaining Agreements***

SECTION 1. Registration of collective bargaining agreement. — The parties to a collective bargaining agreement shall submit to the appropriate Regional Office two (2) duly signed copies thereof within thirty (30) calendar days from execution. Such copies of the agreement shall be accompanied with verified proof of posting in two conspicuous places in the work place and of ratification by the majority of all the workers in the bargaining unit.

Such proof shall consist of copies of the following documents certified under oath by the union secretary and attested by the union president:

- (a) Statement that the collective bargaining agreement was posted in at least two conspicuous places in the establishment at least five (5) days before its ratification; and
- (b) Statement that the collective bargaining agreement was ratified by the majority of the employees in the bargaining unit.

The posting required in the preceding paragraph shall be the responsibility of the parties.

The Regional Office shall assess the employer for every collective bargaining agreement a registration fee of one thousand pesos (P1,000.00).

The Regional Office shall retain one (1) copy of the agreement for its file and transmit one (1) copy thereof to the Bureau within five (5) calendar days from its registration. The Regional Office shall issue a certificate of registration within five (5) calendar days from receipt of the agreement and the proofs of posting and ratification as required herein.

**SECTION 2.** Registration of agreements resulting from awards by the Secretary, the Commission, or the Voluntary Arbitrator. — Where the agreement results from an arbitration award, the same shall be registered in accordance with the immediately preceding section, except that the requirement of ratification and proof thereof shall be dispensed with.

**SECTION 3.** Term of representation status of agreement; contract-bar rule. — The representation status of the incumbent exclusive bargaining representative which is a party to a duly registered collective bargaining agreement shall be for a term of five (5) years. No petition questioning the majority status of the incumbent exclusive bargaining representative shall be entertained and no certification election shall be conducted by the Department outside of the sixty-day period immediately before the date of expiry of such five-year term.

All other provisions of said agreement shall, as a matter of right, be renegotiated not later than three (3) years after its execution. Any agreement on such other provisions entered into within six (6) months from the date of expiry of such provision shall retroact to the day immediately following such date. If any such provisions are entered into beyond six months, the parties shall agree on the duration of retroactivity. In case of a deadlock in the renegotiation of the agreement, the parties may exercise their rights under the Code. In case of renegotiation, all requirements for registration prescribed under the two immediately preceding sections shall be complied with, whichever is applicable, except payment of the registration fee.

SECTION 4. Exception to contract-bar-rule. — Notwithstanding its registration, a collective bargaining agreement shall not constitute a bar to a certification election where it is found in appropriate proceedings before the Regional Director that any of the following conditions exist:

- a) The agreement contains provisions lower than the standards fixed by law; or
- b) The documents supporting its registration are falsified, fraudulent or tainted with misrepresentation.

SECTION 5. Appeal. — The decision of the Regional Director granting or denying an action to declare the registration ineffectual may be appealed to the Bureau on the ground of grave abuse of discretion within ten (10) days from receipt of the parties or a copy thereof. The Bureau shall have twenty (20) days within which to resolve the appeal and its decision shall be final and executory.

## **RULE XVII**

### ***Central Registry of Labor Organizations, Workers' Associations and Collective Bargaining Agreements***

SECTION 1. Forms for registration. — Consistent with the policy of the State to promote unionism, the Bureau shall devise or prescribe such forms as are necessary to facilitate the process of registration of labor organizations, workers associations and collective bargaining agreements or of compliance with all documentary or reporting requirements prescribed in these Rules.

SECTION 2. Transmittal of records, central registry. — The Regional Office shall, within forty-eight (48) hours from issuance of a certificate of registration in favor of an independent union or workers' association, transmit to the Bureau a copy of such certificate, accompanied by a copy of the documents supporting such registration.

The Regional Office shall also transmit to the Bureau a copy of every final decision cancelling or revoking the legitimate status of a labor organization or workers' association, indicating therein the date such decision became final.

In cases of chartering and affiliation under Rule VI or compliance with the reporting requirements under Rule VII of this Book effected directly through the Regional Office, said office shall transmit the original set of documents to the Bureau, retaining one set of documents for its file, within forty-eight (48) hours from receipt thereof.

## **RULE XVIII**

### ***Administration of Trade Union Funds and Actions Arising Therefrom***

SECTION 1. Right of union to collect dues. — The right of the incumbent bargaining representative to check off and to collect dues resulting therefrom shall not be affected by the pendency of a representation case or an intra-union dispute.

SECTION 2. Actions arising from Articles 241 of the Code. — Any action arising from the administration or accounting of union funds shall be filed and disposed of as an intra-union dispute in accordance with Rule XIV of this Book.

In cases of violation, the Regional or Bureau Director shall order the responsible officer to render an accounting of funds before the general membership and may, where circumstances warrant, mete the appropriate penalty to the erring officer/s, including suspension or expulsion from the union.

SECTION 3. Visitorial power under Article 274. — The Regional or the Bureau Director may inquire into the financial activities of any legitimate labor organization and examine their books of accounts and other records to determine compliance with a law and the organization's constitution and by-laws. Such examination shall be made upon filing of a complaint under oath, duly supported by the written consent of at least twenty percent (20%) of the total membership of the labor organization concerned, accompanied by proof that the remedies provided for in the immediately preceding section or in the union's constitution and by-laws have been exhausted or otherwise unavailing. Any complaint which does not meet the foregoing requirements shall be dismissed outright.

SECTION 4. Venue of financial examination. — Where the respondent in the complaint for financial examination is an independent union, local/chapter, or workers association operating in one regional jurisdiction, the complaint shall be filed in the Regional Office having jurisdiction over respondent. Where the respondent is a federation, national union, trade union center or workers association operating in more than one regional jurisdiction, the complaint shall be filed directly with the Bureau.

SECTION 5. Period of inquiry or examination. — No complaint for inquiry or examination of the financial and books of accounts as well as other records of any legitimate labor organization mentioned in Section 3 shall be entertained during the sixty (60) day freedom period or within thirty (30) days immediately preceding the date of election of union officials. Any complaint so filed shall likewise be dismissed.

SECTION 6. Relief under Article 274. — Where the results of the financial examination so warrants, the Bureau or Regional Director may order the accountable officers to make resolution in favor of the union.

SECTION 7. Appeals. — The decision of the Regional Director may be appealed to the Bureau on the ground of grave abuse of discretion within ten (10) days from receipt of the parties of a copy thereof.

Where the complaint is directly filed with the Bureau, appeal from the decision of the Bureau shall be to the Office of the Secretary, subject to the requirements prescribed in the immediately preceding paragraph.

## **RULE XIX**

### ***Grievance Machinery and Voluntary Arbitration***

SECTION 1. Establishment of grievance machinery. — The parties to a collective bargaining agreement shall establish a machinery for the expeditious resolution of grievances arising from the interpretation or implementation of the collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies.

In the absence of applicable provisions in the collective bargaining agreement, a grievance committee shall be created within ten (10) days from the signing of the collective bargaining agreement. The committee shall be composed of at least two (2) representatives each from the members of the bargaining unit and the employer, unless otherwise agreed upon by the parties. The representatives from among the members of the bargaining unit shall be designated by the union.

SECTION 2. Procedures in handling grievances. — In the absence of a specific provision in the collective bargaining agreement prescribing for the procedures in handling grievances, the following shall apply:

- (a) An employee shall present his grievance or complaint orally or in writing to the shop steward. Upon receipt thereof, the shop steward shall verify the facts and determine whether or not the grievance is valid.
- (b) If the grievance is valid, the shop steward shall immediately bring the complaint to the employee's immediate supervisor. The shop steward, the employee and his immediate supervisor shall exert efforts to settle the grievance at their level.
- (c) If no settlement is reached, the grievance shall be referred to the grievance committee which shall have ten (10) days to decide the case.

Where the issue involves or arises from the interpretation or implementation of a provision in the collective bargaining agreement, or from any order, memorandum, circular or assignment issued by the appropriate authority in the establishment, and such issue cannot be resolved at the level of the shop steward or the supervisor, the same may be referred immediately to the grievance committee.

All grievances unsettled or unresolved within seven (7) calendar days from the date of its submission to the last step in the grievance machinery shall automatically be referred to a voluntary arbitrator chosen in accordance with the provisions of the collective bargaining



agreement, or in the absence of such provisions, by mutual agreement of the parties.

SECTION 3. In the absence of agreement between the authorized employer and worker's representatives, the foregoing provisions shall apply to unorganized establishments. In any event, however, the workers representative shall be elected by the employees at large.

SECTION 4. Jurisdiction of voluntary arbitrator or panel of voluntary arbitrators. — The voluntary arbitrator or panel of voluntary arbitrators named in the collective bargaining agreement shall have exclusive and original jurisdiction to hear and decide all grievances arising from the implementation or interpretation of the collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies which remain unresolved after exhaustion of the grievance procedure. Upon agreement of the parties, any other labor dispute may be submitted to a voluntary arbitrator or panel of voluntary arbitrators.

SECTION 5. All labor-management disputes subject to voluntary arbitration. — It is the policy of the State to encourage voluntary arbitration on all other labor-management disputes. Before or at any stage of the compulsory arbitration process, the parties may opt to submit their dispute to voluntary arbitration.

SECTION 6. Powers of voluntary arbitrator and panel of voluntary arbitrators. — The voluntary arbitrator or panel of voluntary arbitrators shall have the power to hold hearings, receive evidence and take whatever action is necessary to resolve the issue/s subject of the dispute.

SECTION 7. Procedures. — All parties to the dispute shall be entitled to attend the arbitration proceedings. The attendance of any third party or the exclusion of any witness from the proceedings shall be determined by the voluntary arbitrator or panel of voluntary arbitrators. Hearing may be adjourned for cause or upon agreement by the parties.

Unless the parties agree otherwise, it shall be mandatory for the voluntary arbitrator or panel of voluntary arbitrators to render an



award or decision within twenty (20) calendar days from the date of submission of the dispute to voluntary arbitration.

SECTION 8. Award/Decision. — The award or decision of the voluntary arbitrator or panel of voluntary arbitrators must state in clear, concise and definite terms the facts, the law and/or contract upon which it is based. It shall be final and executory after ten (10) calendar days from the receipt of the copy of the award or decision by the parties.

SECTION 9. Execution of Award/Decision. — Upon motion of any interested party, the voluntary arbitrators or panel of voluntary arbitrators or the Labor Arbiter in the region where the movant resides, in case of the absence or incapacity of the voluntary arbitrator or panel of voluntary arbitrators for any reason, may issue a writ of execution requiring either the Sheriff of the Commission or regular courts or any public official whom the parties may designate in the submission agreements to execute the final decision, order or award.

SECTION 10. Cost of voluntary arbitration and voluntary arbitrator's fee. — The parties to a collective bargaining agreement shall provide therein a proportionate sharing scheme on the cost of voluntary arbitration including the voluntary arbitrator's fee. The fixing of fee of voluntary arbitrators or panel of arbitrators whether shouldered wholly by the parties or subsidized by the Special Voluntary Arbitration Fund shall take into account the following factors:

- (a) Nature of the case;
- (b) Time consumed in hearing the case;
- (c) Professional standing of the voluntary arbitrator;
- (d) Capacity to pay the parties; and
- (e) Fees provided for in the Revised Rules of Court.

Unless the parties agree otherwise, the cost of voluntary arbitration proceedings and voluntary arbitrator's fee shall be shared equally by the parties.

Parties are encouraged to set aside funds to answer for the cost of voluntary arbitration proceeding including voluntary arbitrator's fee. In the event that said funds are not sufficient to cover such expenses,

an amount by way of subsidy taken out of the Special Voluntary Arbitration Fund may be availed of by either or both parties subject to the guidelines on voluntary arbitration to be issued by the Secretary.

## **RULE XX**

### ***Labor Education and Research***

SECTION 1. Labor education of workers and employers. — The Department shall develop promote and implement appropriate labor education and research programs on the rights and responsibilities of workers and employers.

It shall be the duty of every legitimate labor organization to implement a labor education program for its members on their rights and obligations as unionist and as employees.

SECTION 2. Mandatory conduct of seminars. — Subject to the provisions of Article 241, it shall be mandatory for every legitimate labor organization to conduct seminars and similar activities on existing labor laws, collective agreements, company rules and regulations, and other relevant matters. The union seminars and similar activities may be conducted independently of or in cooperation with the Department and other labor education institutions.

SECTION 3. Special fund for labor education research. — Every legitimate labor organization shall, for the above purpose, maintain a special fund for labor education and research. Existing strike funds may be transformed into labor education and research funds in whole or in part. The union may also periodically assess ad collect a reasonable amount from its members for such fund.

## **RULE XXI**

### ***Labor-Management and other Councils***

SECTION 1. Creation of labor management and other councils. — The Department shall promote the formation of labor-management councils in organized and unorganized establishments to enable the workers to participate in policy and decision-making processes in the establishment, insofar as said processes will directly affect their

rights, benefits and welfare, except those which are covered by collective bargaining agreements or are traditional areas of bargaining.

The Department shall promote other labor-management cooperation schemes and, upon its own initiative or upon the request of both parties, may assist in the formulation and development of programs and projects on productivity, occupational safety and health, improvement of quality or work life, product quality improvement, and other similar scheme.

In line with the foregoing, the Department shall render, among others, the following services:

- (1) Conduct awareness campaigns;
- (2) Assist the parties in setting up labor-management structures, functions and procedures;
- (3) Provide process facilitators upon request of the parties; and
- (4) Monitor the activities of labor-management structures as may be necessary and conduct studies on best practices aimed at promoting harmonious labor-management relations.

SECTION 2. Selection of representatives. — In organized establishments, the workers' representatives to the council shall be nominated by the exclusive bargaining representative. In establishments where no legitimate labor organization exists, the workers representative shall be elected directly by the employees at large.

## **RULE XXII**

### ***Picketing, Strikes and Lockouts***

SECTION 1. Grounds for strike and lockout. — A strike or lockout may be declared in cases of bargaining deadlocks and unfair labor practices. Violations of collective bargaining agreements, except flagrant and/or malicious refusals to comply with its economic provisions, shall not be considered unfair labor practice and shall not be strikeable. No strike or lockout may be declared on ground

involving inter-union ad intra-union disputes or on issues brought to voluntary or compulsory arbitration.

SECTION 2. Who may declare a strike or lockout. — Any certified or duly recognized bargaining representative may declare a strike in cases of bargaining deadlocks and unfair labor practices. The employer may declare a lockout in the same cases. In the absence of a certified or duly recognized bargaining representative, any legitimate labor organization in the establishment may declare a strike but only on grounds of unfair labor practices.

SECTION 3. Notice of strike or lockout. — In cases of bargaining deadlocks, a notice of strike or lockout shall be filed with the regional branch of the Board at least thirty (30) days before the intended date thereof, a copy of said notice having been served on the other party concerned. In cases of unfair labor practice, the period of notice shall be fifteen (15) days. However, in case of unfair labor practice involving the dismissal from employment of any union officer duly elected in accordance with the union constitution and by-laws which may constitute union busting where the existence of the union is threatened, the fifteen-day cooling-off period shall not apply and the union may take action immediately after the strike vote is conducted and the results thereof submitted to the appropriate regional branch of the Board.

SECTION 4. Contents of notice. — The notice shall state, among others, the names and addresses of the employer and the union involved, the nature of the industry to which the employer belongs, the number of union members and of the workers in the bargaining unit, and such other relevant data as may facilitate the settlement of the dispute, such as brief statement or enumeration of all pending labor disputes involving the same parties.

In cases of bargaining deadlocks, the notice shall, as far as practicable, further state the unresolved issues in the bargaining negotiations and be accompanied by the written proposals of the union, the counter-proposals of the employer and the proof of a request for conference to settle the differences. In cases of unfair labor practices, the notice shall, as far as practicable, state the acts complained of and the efforts taken to resolve the dispute amicably.

Any notice which does not conform with the requirements of this and the foregoing sections shall be deemed as not having been filed and the party concerned shall be so informed by the regional branch of the Board.

SECTION 5. Disclosure of information. — In collective bargaining, the parties shall, at the request of either of them, make available such up-to-date financial information on the economic situation of the undertaking, which is normally submitted to relevant government agencies, as a material and necessary for meaningful negotiations. Where the disclosure of some of this information could be prejudicial to the undertaking, its communication may be made condition upon a commitment that it would be regarded as confidential to the extent required. The information to be made available may be agreed upon between the parties to collective bargaining.

SECTION 6. Conciliation. — Upon receipt of the notice, the regional branch of the Board shall exert all efforts at mediation and conciliation to enable the parties to settle the dispute amicably. The regional branch of the Board may, upon consultation, recommend to the parties that the notice be treated as a preventive mediation case. It shall also encourage the parties to submit the dispute to voluntary arbitration.

During the proceedings, the parties shall not do any act which may disrupt or impede the early settlement of the dispute. They are obliged, as part of their duty to bargain collectively in good faith, to participate fully and promptly in the conciliation meetings called by the regional branch of the Board. The regional branch of the Board shall have the power to issue subpoenas requiring the attendance of the parties to the meetings.

Information and statements given at conciliation proceedings shall be treated as privileged communications. Conciliators and similar officials shall not testify in any court or body regarding any matter taken up at conciliation proceedings conducted by them.

SECTION 7. Strike or lockout vote. — A decision to declare a strike must be approved by a majority of the total union membership in the

bargaining unit concerned obtained by secret ballot in meetings of referenda called for the purpose. A decision to declare a lockout must be approved by a majority of the board of directors of the employer, corporation or association or the partners in a partnership obtained by a secret ballot in a meeting called for the purpose.

The regional branch of the Board may, at its own initiative or upon request of any affected party, supervise the conduct of the secret balloting. In every case, the union or the employer shall furnish the regional branch of the Board the notice of meetings referred to in the preceding paragraph at least twenty-four (24) hours before such meetings as well as the results of the voting at least seven (7) days before the intended strike or lockout, subject to the cooling-off period provided in this Rule.

**SECTION 8. Declaration of strike or lockout.** — Should the dispute remain unsettled after the lapse of the requisite number of days from the filing of the notice of strike or lockout and of the results of the election required in the preceding section, the labor union may strike or the employer may lock out its workers. The regional branch of the Board shall continue mediating and conciliating.

**SECTION 9. Improved offer balloting.** — In case of a strike, the regional branch of the Board shall, at its own initiative or upon at the request of any affected party, conduct a referendum by secret balloting on the improved offer of the employer on or before the 30th day of strike. When at least a majority of the union members vote to accept the improved offer, the striking workers shall immediately return to work and the employer shall thereupon readmit them upon the signing of the agreement.

In case of a lockout, the regional branch of the Board shall also conduct a referendum by secret balloting on the reduced offer of the union on or before the 30th day of the lockout. When at least a majority of the board or directors or trustees or the partners holding the controlling interest in the case of partnership vote to accept the reduced offer, the workers shall immediately return to work and the employer shall thereupon readmit them upon the signing of the agreement.



SECTION 10. Hiring of replacements. — The mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment even if a replacement had been hired by the employer during such lawful strike. But any union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status.

SECTION 11. Prohibitions regarding the employment of replacements. — No public official or employee, including officers and personnel of the Armed Forces of the Philippines or the Philippine National Police, or any armed person shall —

- (a) 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
- (b) Work in place of the strikers.

Nothing herein shall be interpreted to prevent aforementioned officials, employees or peace officers from taking any measure necessary to maintain peace and order and/or protect life and property.

SECTION 12. Peaceful picketing. — Workers shall have the right to peaceful picketing. No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares.

No person shall obstruct, impede or interfere with, by force, violence, coercion, threats or intimidation, any peaceful picketing by workers during any labor controversy or in the exercise of the right to self-organization or collective bargaining or shall aid or abet such obstruction or interference. No employer shall use or employ any person to commit such acts nor shall any person be employed for such purpose.

SECTION 13. Injunctions. — No court or entity shall enjoin any picketing, strike or lockout, except as provided in Article 218 and 263 of the Code.



The Commission shall have the power to issue temporary restraining orders in such cases but only after due notice and hearing and in accordance with its rules. The reception of evidence for the application of a writ of injunction may be delegated by the Commission to any Labor Arbiter who shall submit his recommendations to the Commission for its consideration and resolution.

Any ex parte restraining order issued by the Commission, or its Chairman or Vice-Chairman where the Commission is not session and as prescribed by its rules, shall be valid for a period not exceeding 20 days.

SECTION 14. Criminal prosecution. — The regular courts shall have jurisdiction over any criminal action under Article 272 of the Code.

### **RULE XXIII** ***Termination of Employment***

SECTION 1. Security of tenure. — (a) In cases of regular employment, the employer shall not terminate the services of an employee except for just or authorized causes as provided by law, and subject to the requirements of due process.

(b) The foregoing shall also apply in cases of probationary employment, provided, however, that in such cases, the termination of employment due to failure of the employee to qualify in accordance with the standard of the employer made known to the former at the time of engagement may also be a ground for termination of employment.

(c) In cases of project employment or employment covered by legitimate contracting or subcontracting arrangements, no employee shall be dismissed prior to the completion of the project or phase thereof for which the employee was engaged, or prior to the expiration of the contract between the principal and contractor, unless the dismissal is for just or authorized cause subject to the requirements of due process or prior notice, or is brought about by

the completion of the phase of the project or contract for which the employee was engaged.

SECTION 2. Standards of due process; requirements of notice. — In all cases of termination of employment, the following standards of due process shall be substantially observed:

- I. For termination of employment based on just causes as defined in Article 282 of the Code:
  - (a) A written notice served on the employee specifying the ground or grounds for termination, and giving to said employee reasonable opportunity within which to explain his side;
  - (b) A hearing or conference during which the employee concerned, with the assistance of counsel if the employee so desires, is given opportunity to respond to the charge, present his evidence or rebut the evidence presented against him; and
  - (c) A written notice of termination served on the employee indicating that upon due consideration of all the circumstances, grounds have been established to justify his termination.

In case of termination, the foregoing notices shall be served on the employee's last known address.

II. For termination of employment as based on authorized causes defined in Article 283 of the Code, the requirements of due process shall be deemed complied with upon service of a written notice to the employee and the appropriate Regional Office of the Department at least thirty days before the effectivity of the termination., specifying the ground or grounds for termination.

III. If the termination is brought about by the completion of the contract or phase thereof, no prior notice is required. If the termination is brought about by the failure of an employee to

meet the standards of the employer in the case of probationary employment, it shall be sufficient that a written notice is served the employee within a reasonable time from the effective date of termination.

SECTION 3. Right to contest dismissal. — Any decision taken by the employer shall be without prejudice to the right of the worker to contest the validity or legality of his dismissal by filing a complaint with the Regional Branch of the Commission.

SECTION 4. Period to decide. — Cases involving the dismissal of a worker shall be decided by the Labor Arbiter within twenty (20) working days from the date of submission of such cases for decision.

SECTION 5. Reinstatement pending hearing. — The Secretary may suspend the effects of the termination pending resolution of the case in the event of a prima facie finding that the termination may cause a serious labor dispute or is in implementation of a mass lay-off.

SECTION 6. Certification of employment. — A dismissed worker shall be entitled to receive, on request, a certificate from the employer specifying the dates of his engagement and termination of his employment and the type or types of work on which he is employed.

SECTION 7. Report of dismissal. — The employer shall submit a monthly report to the Regional Office having jurisdiction over the place of work all dismissals effected by it during the month, specifying therein the names of the dismissed workers, the reasons for their dismissal, the dates of commencement and termination of employment, the positions last held by them and such other information as may be required by the Department for policy guidance and statistical purposes.

SECTION 8. Preventive suspension. — The employer may place the worker concerned under preventive suspension if his continued employment poses a serious and imminent threat to the life or property of the employer or of his co-workers.

SECTION 9. Period of suspension. — No preventive suspension shall last longer than thirty (30) days. The employer shall thereafter

reinstate the workers in his former or in a substantially equivalent position or the employer may extend the period of suspension provided that during the period of extension, he pays the wages and other benefits due to the worker. In such case, the worker shall not be bound to reimburse the amount paid to him during the extension if the employer decides, after completion of the hearing, to dismiss the worker.

## **RULE XXIV**

### ***Execution of Decisions, Awards, or Orders***

SECTION 1. Finality of decisions. — Unless otherwise specifically provided for in this Book, the decision of the Secretary, Commission, the Bureau of Regional Director, the Labor Arbiter, the Med-Arbiter or the Voluntary Arbitrator shall be final and executory after ten (10) calendar days from receipt thereof by the parties.

SECTION 2. Execution of decisions, orders or awards. — (a) The Secretary or the Bureau or Regional Director, the Labor Arbiter, the Med-Arbiter or Voluntary Arbitrator may, upon his own initiative or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory, requiring the Sheriff or the duly deputized officer to execute or enforce their respective final decisions, orders, and awards.

(b) The Secretary and the Chairman of the Commission may designate special sheriffs and take any measure under existing laws to ensure compliance with their decisions, orders or awards and those of the Labor Arbiters and voluntary arbitrators, including the imposition of administrative fines, which shall not be less than five hundred (P500.00) pesos nor more than ten thousand (P10,000.00) pesos.

(c) Alternatively, the Secretary, the Commission, any Labor Arbiter, the Regional Director or the Director of the Bureau of Labor Relations in appropriate cases may deputize the Philippine National Police or any law-enforcement agencies in the enforcement of final awards, orders or decisions.

**RULE XXV**  
***General Provisions***

SECTION 1. Penalties. — Any person violating any of the provisions of Article 264 of the Code shall be punished by a fine of not less than one thousand (P1,000.00) pesos nor more than ten thousand (P10,000.00) pesos and/or imprisonment for not less than three (3) months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the court. Prosecution under this provision shall preclude prosecution for the same act under the Revised Penal Code and vice versa.

SECTION 2. Frivolous or dilatory appeals. — To discourage frivolous or dilatory appeals, the Secretary, Commission or the Labor Arbiter shall impose reasonable penalties, including fines or censures upon erring parties,

SECTION 3. Enforcement of decisions, orders and awards. — The Secretary and the Chairman of the Commission may take any measure under existing laws to ensure compliance with their decisions, orders and awards and those of Labor Arbiters and Voluntary Arbitrators, including the imposition of administrative fines which shall not be less than P500.00 nor more than P10,000.00 against the erring parties.

SECTION 4. Person guilty of misbehavior. — A person guilty of misbehavior in the presence of or so near the Secretary, the Chairman or any member of the Commission or any Labor Arbiter as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive personalities toward others, or refusal to be sworn or to answer as a witness or to subscribe an affidavit of deposition when lawfully required to do so may be summarily adjudged in direct contempt by said officials and punished by fines not exceeding five hundred pesos (P500.00) or imprisonment not exceeding five (5) days or both, if it be the Secretary, the Commission or members thereof, or a fine not exceeding one hundred (P100.00) pesos or imprisonment not exceeding one (1) day, or both, if it be a Labor Arbiter.

The person adjudged in direct contempt by a Labor Arbiter may appeal to the Commission and the execution of the judgment shall be suspended pending the resolution of the appeal upon the filing by such person of a bond on condition that he will abide by and perform the judgment should the appeal be decided against him. The judgment of the Commission is immediately executory and unappealable.

Indirect contempt shall be dealt with by the Secretary, Commission or Labor Arbiter in the manner prescribed under Rule 71 of the Revised Rules of Court.

SECTION 5. Incidental motions will not be given due course. — In all proceedings at all levels, motions for dismissals or any other incidental motions shall not be given due course, but shall remain as part of the records for whatever they may be worth when the case is decided on the merits.

SECTION 6. Non-intervention of outsiders in labor disputes. — No person other than the interested parties, their counsels or representatives may intervene in labor disputes pending before the Regional Office, the Bureau, Labor Arbiters, the compulsory or voluntary arbitrators, the Commission, and the Secretary. Any violation of this provision will subject the outsider to the administrative fines and penalties provided for in the Code.

SECTION 7. When complaint deemed filed. — A complaint is deemed filed upon receipt thereof by the appropriate agency which has jurisdiction over the subject matter and over the parties.

SECTION 8. Check-off from non-members. — Pursuant to Article 248 (e) of the Code, the employer shall check-off from non-union members within a collective bargaining unit the same reasonable fee equivalent to the dues and other fees normally paid by union members without the need for individual check-off authorizations.

ARTICLE II. All other rules, regulations, issuances, circulars and administrative orders inconsistent herewith are hereby superseded.

ARTICLE III. The foregoing rules shall take effect two weeks after completion of publication in two (2) newspaper of national circulation.

**(SGD.)**  
**LEONARDO A. QUISUMBING**  
***Secretary***

**June 21, 1997**

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