

**[DTC DEPARTMENT CIRCULAR NO. 2001-01,
January 23, 2001]**

**RULES AND REGULATIONS IN THE PROCESSING, HEARING AND
ADJUDICATION OF APPLICATIONS FOR AUTHORITY TO OPERATE
PRIVATE EXPRESS AND/OR MESSENGER DELIVERY SERVICE,
AND IN THE INVESTIGATION OF COMPLAINTS IN CONNECTION
WITH THE OPERATION OF SUCH SERVICES**

Pursuant to Republic Act No. 7354 approved on April 03, 1992, and Presidential Decree No. 240 issued on July 9, 1973, the following rules and regulations are hereby promulgated:

Part I - General Provisions

Rule 1 - Title

SECTION 1. Title and Scope - These rules shall be known as the Rules and Regulations in the Processing, Hearing and Adjudication of Applications for Authority to Operate Private Express and/or Messenger Delivery Service, and in the Investigation of Complaints in connection with the Operation of such Services."

SECTION 2. Construction - These rules shall be liberally construed to protect and promote public interest and to assist the parties in obtaining just, speedy and inexpensive action or remedy.

Rule 2 - DEFINITIONS

SECTION 1. For purposes of these rules, the terms:

- a. "BRANCH" refers to any station or substation directly operated and managed by private firms authorized by the DOTC to operate and express and/or messenger delivery service, for the receiving, delivery and dispatching of mails and parcels to areas within the scope of their authority.
- b. "COMMITTEE" refers to the Postal Regulation Committee composed of the Chairman, the Vice-Chairman, and two (2) members, that hears, decides on, and processes applications for authority to operate private express and/or messenger delivery services, and investigates complaints and violations of applicable laws and regulations, and adjudicates administrative controversies in connection with the operation of such services.
- c. "DEPARTMENT" or "DOTC" refers to the Department of Transportation and Communications.
- d. "EXPRESS AND/OR MESSENGERIAL DELIVERY SERVICE FIRM" (hereafter

the "Firm") includes every natural or juridical person that owns, operates, manages or controls in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and for general business purposes, any service for the personal delivery to other persons, of written messages and any mail matter, except telegram. A person or his employee delivering any article owned by the former is not conducting an express and/or messengerial delivery service within the context of this Circular.

e. "EXTENSION OFFICE" refers to any station utilized not for the acceptance or posting of mails but only as drop and consolidation points for mails and parcels to be distributed and delivered to a specific area or areas.

f. "JURISDICTIONAL REQUIREMENTS" consisting of acknowledgment receipts of the copy of the Notice of Hearing together with a copy of the application by PEMAP, PPC and other affected operators, the Affidavit of Publication and copies of the newspapers publishing the Notice of Hearing.

g. "MAIL or MAIL MATTERS" refers to all matters authorized by the Government to be delivered through the postal service which include letters, parcels, printed materials and money orders.

h. "OPERATOR" refers to a person, natural or juridical, granted by the Department of Transportation and Communications (DOTC) authority to operate private express and/or messenger delivery services.

i. "OPPOSITOR" refers to a person, natural or juridical, who is authorized by Jaw to file; and does file a written opposition to an application for the issuance of an authority, to operate private express and/or messenger delivery services.

j. "PARCEL" means a package whose dimension and weight are specified in the Philippine Postal Corporation (PPC) Weight and Measure, containing goods or transportable property intended for delivery to an addressee whose name and address are conspicuously written on at least one of its sides.

k. "PEMAP" refers to the Private Express and Messengerial Association of the Philippines.

l. "PEMEDES" refers to Private Express and/or Messenger Delivery Services.

m. "PRIVATE EXPRESS AND/OR MESSENGER DELIVERY SERVICE" refers to the delivery of written messages and mail matter in accordance with the following schedule:

- ordinary mail - to be delivered to the addressee within seven (7) working days from receipt of the written message or mail matter by the Firm.
- special delivery - to be delivered within three (3) working days from mail receipt by the Firm.
- rush mail - to be delivered within twenty four (24) hours from receipt by the Firm.

n. "SECRETARY" refers to the Secretary of the Department of Transportation and Communications

Rule 3 - Pleadings

SECTION 1. All Petitions/Applications-for authority to operate private express and/or messenger delivery service and complaints against any violator of the applicable laws, rules and regulations shall bear the full names of the parties, their addresses and the ultimate facts constituting the cause/s of action of the petition or complaint which must be stated with particularity and sufficient definiteness. All other pleadings shall have in the caption thereof the full names of all the parties and the case number. The Petition/Application and Complaint shall be verified.

Rule4-

Application for Authority to Operate Private Express And/Or Messenger Delivery Service

SECTION 1. WHO MAY FILE - An application to operate a private express and/or messenger delivery service may be tiled by any Filipino Citizen or a corporation or partnership duly registered with the Securities and Exchange Commission at least sixty percent (60%) of whose capital stock or shares is owned by Filipino citizen/s. Applicants seeking authority to operate in two or more administrative regions of the country must have a paid-up capital of Five Hundred Thousand (P500,000.00) Pesos, Those applying for authority to operate in Metro Manila or in one administrative region only must have a paid-up, capital of at least Three Hundred Thousand (P300,000.00) Pesos. Those with existing authority, to operate whose paid-up capital is less than Five Hundred Thousand (P500.000.00) Pesos, or Three Hundred Thousand (P300.000.00) Pesos, as the case may be, shall increase their capital to the appropriate levels stated in the preceding paragraph within a period of two (2) years from date of effectivity of this Circular.

SECTION 2. Form and Content of Application - The Application/Petition shall be verified and shall state, among others, the following:

- a. That the applicant intends to operate a private express and/or messenger delivery service and has deposited in the bank such capital as required under Section 1 hereof, and that the applicant undertakes to update said bank deposit by way of bank certification every ninety (90) days during the hearing of the application;
- b. That the applicant is a Filipino citizen or a corporation or partnership duly registered with the Securities and Exchange Commission (SEC) sixty percent (60%) of whose capital stock or shares is owned by Filipino citizen/s and that its executive and managing officers are citizens of the Philippines;
- c. That the applicant shall operate in a definite geographical area in the Philippines which shall be clearly described by stating, among other things, the limits and boundaries thereof; and that the said area of operation is not yet saturated considering the population, the volume of mails and the existing operators and that the grant of authority to the applicant will redound to the improvement of the mail delivery service in the area and the public good;

d. That the applicant undertakes to post within thirty (30) days from the issuance of the Decision granting the authority, a surety bond issued by the Government Service Insurance System (GSIS) or by any accredited bonding company authorized by the Philippine Insurance Commission in the amount of FIFTY THOUSAND (P50,000.00) PESOS for those authorized to operate in two or more regions and THIRTY THOUSAND (P30,000.00) PESOS for those authorized to operate in Metro Manila only or in one region. The surety bond shall be in favor of the Department to answer for any loss of or damage to the mail or parcel while in the custody of the operator.

e. That the applicant has the financial and technical capacity to operate the service applied for,

In addition to the above-mentioned requirements, the applicant shall submit the following:

1. Copy of SEC Registration, Articles of Incorporation and By-Laws for corporations or DTI Registration and Original Application of Business Name for single proprietorships; or SEC Registration, and Articles of Partnership for partnerships;
2. The complete address of the management offices and operating stations and the land title(s) if the place is owned by the applicant or the contracts) of lease if the place is rented;
3. Notarized Letters of Intent of at least five (5) prospective clients who may be summoned to attest personally to the truthfulness of the statements in the Letters of Intent; each Letter of Intent must be renewed every sixty (60) days from date of issuance;
4. A Feasibility Study containing, among others, the organizational structure, standards for operations and recruitment of personnel, most especially the messengers, and three (3) years projection of the volume of deliveries, income, and expenses and cash flows;
5. A notarized and updated deposit statement/certification of the bank where the capital of the applicant is deposited in accordance with Section 2 (a) hereof,
6. An undertaking under oath that the applicant shall not cause the withdrawal of said bank deposit during the pendency of the hearing and adjudication of the application, and shall not operate private express and/or messenger delivery service prior to the grant thereof;
7. A written waiver-of the confidentiality of the applicant's bank deposit specifying the account number or an exemption in writing from the Bank Secrecy Law and;
8. A list of office equipment; furniture, fixtures and motor vehicles with their corresponding actual valuation and the corresponding current official receipts of registration and certificates of registration in case of motor vehicles.
9. Sketch of office location and office lay-put

10. Bio-data of the President/Proprietor and the prospective General Manager and/or Operations Manager.

SECTION 3. FILING FEE - A filing fee for an application for a new authority or the renewal/extension thereof in the amount of THREE THOUSAND (P3, 000.00) PESOS plus FIVE HUNDRED (P500.000) PESOS for every branch shall be paid to the Cashier, of the Department. The application shall be accepted only upon presentation of the official receipt of payment.

The application for renewal/extension shall be filed on or before the expiration date of the authority to entitle the operator concerned to continue the operation of the messengerial delivery service pending the approval of the said application. Those who fail to apply for renewal/extension on time shall be considered "colorum" operators in which case they shall be charged the amount of ONE THOUSAND (P1,000.00) PESOS as penalty for every month of delay or a portion thereof, with three (3) months grace period reckoned from the expiration date of the authority. Application for renewal/extension after the said three (3) months grace period shall no longer be accepted by the Department

SECTION 4. PUBLICATION AND NOTICE - After the payment of the required fees, docketing of the application and the ocular inspection required under Section 1, Rule 5 hereof, the Chairman of the Committee shall issue a Notice of Hearing-setting the date, time, and place for initial hearing of the case. The applicant shall cause the publication of the Notice of Hearing once a week for three (3) consecutive weeks in a newspaper of general circulation within thirty (30) days from date of receipt thereof. The Notice of Hearing shall contain the name of the applicant, case number, concise statement of the authority applied for; place, date and time of hearing. Applicant shall serve a copy of said notice together with a copy of the application and its annexes to the PEMAP; the Philippine Postal Corporation and other affected operators. Those intending to oppose the petition shall file a verified Opposition with this Department through the Committee, a copy thereof served to the Applicant/Petitioner at least fifteen (15) days before the scheduled date of initial hearing.

SECTION 5. FIXING OF RATES - The Secretary, after due notice and hearing, may fix or adjust the rates charged by the private express and/or messenger delivery service firms. Verified application for rate adjustment may be filed by operators showing the bases and justification for the adjustment prayed for. The hearing shall be opened to the public and the schedule thereof widely disseminated. The Department through the Committee shall ensure that all parties that may be affected by the adjustment are invited to the public hearing.

SECTION 6. STAMP-MARK - The authorized operator shall have a stamp-mark containing its name, the date of posting/receipt of the mail matter and the classification thereof. The stamp-mark shall be legibly imprinted on the face or side of all articles it accepts for delivery.

SECTION 7. PROHIBITIONS - The holder of an authority shall neither lease, transfer, sell or assign the authority and the rights and privileges appurtenant thereto to any person, firm, company, corporation or other legal entity nor merge with any other person, company or corporation organized for the same purpose, without the approval of the Secretary. Further, the holder of an authority shall not charge such