

[DOLE DEPARTMENT ORDER NO. 09, S. 1997, May 01, 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 routine 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.