



# **HANDBOOK ON WORKERS' STATUTORY MONETARY BENEFITS**



Department of Labor and Employment  
Bureau of Working Conditions  
2006

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**BUREAU OF WORKING CONDITIONS**  
DEPARTMENT OF LABOR AND EMPLOYMENT  
INTRAMUROS, MANILA  
2006

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## FOREWORD

One of the tasks of DOLE is to ensure compliance with general labor standards. But faced with low inspector-to-establishment ratio, my predecessor spearheaded, through the DOLE Labor Standards Enforcement Framework issued in 2004, a strategic approach of promoting a culture of voluntary compliance and self-regulation. This approach we shall continue to adopt.

Because violations of general labor standards may be attributable to inadequate understanding rather than willful disregard by employers, we are therefore issuing this 2006 Edition of the *Handbook on Workers' Statutory Monetary Benefits*.

When I assumed office, this handbook was already in good draft but we took a second look at it, guided by queries received at the Bureau of Working Conditions and explanatory bulletins issued by the DOLE through the years. Perhaps we have improved the overall presentation of the handbook and have made it more reader-friendly. We also added sections pertaining to PhilHealth and SSS benefits.

We hope that this Handbook will promote better appreciation of labor standards and cultivate a culture of voluntary compliance by all concerned.

**ARTURO D. BRION**  
Secretary

31 July 2006

## FOREWORD TO THE 2006 EDITION

This updated edition of the *Handbook on Workers' Statutory Monetary Benefits* contains a comprehensive listing of mandatory benefits that workers are entitled to receive under the Labor Code of the Philippines, as amended, and other existing laws. It offers the latest information on the minimum wage and other monetary and welfare benefits in simple and concise format.

New additions to this version include the prevailing regional daily wage rates and updated and easy-to-understand illustrations on the computation of wage-related benefits. It also includes leave benefits provided for under Republic Act 8972 (Solo Parents Welfare Act of 2000) and Republic Act 9262 (Anti-Violence Against Women and Their Children Act of 2004).

The *Handbook* was updated for it to remain a relevant and valuable reference for both employers and employees in our bid to promote enforcement and full compliance with labor standards that will improve workers' general welfare and promote workplace harmony. It also forms part of our advocacy towards creating a culture of voluntary compliance with labor standards and expanding the reach of the Department of Labor and Employment.

This publication will undoubtedly be a good resource for labor law enforcers and human resource development practitioners, as well as students, teachers and researchers of industrial relations, labor standards and social legislation. It is hoped that this *Handbook* will contribute to the general understanding and appreciation of existing laws on workers' benefits that is crucial to improving working conditions.

**PATRICIA A. STO. TOMAS**  
Secretary

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# 1

## MINIMUM WAGE

Republic Act No. 6727 (also known as the Wage Rationalization Act ) mandates the fixing of the statutory minimum wages applicable to different industrial sectors, namely, non-agricultural, agricultural plantation, and nonplantation, cottage/handicraft, and retail/service, depending on the number of workers or capitalization or annual gross sales in some sectors.

The Rules Implementing RA 6727 define the industrial sectors as follows:

Agriculture refers to farming in all its branches and, among others, includes the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing and/or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic or other farm products.

Plantation Agricultural Enterprise is one engaged in agriculture with an area of more than 24 hectares in a locality or which employs at least 20 workers. Any other agricultural enterprise shall be considered as Non-plantation Agricultural Enterprise.

Retail Establishment is one principally engaged in the sale of goods to end-users for personal or household use.

Service Establishment is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such.

Cottage/Handicraft Establishment is one engaged in an economic endeavor in which the products are primarily done in the home or such other places for profit which requires manual dexterity and craftsmanship and whose capitalization does not

exceed P500,000, regardless of previous registration with the defunct NACIDA.

The said law rationalized wage determination by establishing the mechanism and proper standards through the creation of Regional Tripartite Wages and Productivity Boards authorized to determine the wage rates in the different regions based on established criteria. There is now a Board for each of the following regions:

- National Capital Region (NCR) or Metro Manila
- Cordillera Administrative Region (CAR)
- Region 1 - Northern Luzon or Ilocos
- Region 2 - Cagayan Valley
- Region 3 - Central Luzon
- Region 4-A - CALABARZON (Cavite, Laguna, Batangas, Rizal, Quezon)
- Region 4-B - MIMAROPA (Mindoro, Marinduque, Romblon, Palawan)
- Region 5 - Bicol
- Region 6 - Western Visayas
- Region 7 - Central Visayas
- Region 8 - Eastern Visayas
- Region 9 - Western Mindanao or Zamboanga Peninsula
- Region 10 - Northern Mindanao
- Region 11 - Southern Mindanao or Davao
- Region 12 - Central Mindanao or SOCCSKSARGEN (South Cotabato, North Cotabato, Sultan Kudarat, Sarangani, General Santos)
- Region 13 - CARAGA
- Autonomous Region in Muslim Mindanao (ARMM).

Existing Regional Wage Orders prescribe the daily minimum basic wage rates per industry per locality within the region, in some instances depending on the number of workers and the capitalization of enterprises. The Wage Orders likewise provide the basis and procedure for exemption from compliance. Some Wage Orders grant allowances instead of wage increases.

#### **A. Coverage**

The wage increases prescribed under Wage Orders apply to all private sector workers and employees regardless of their position, designation, or status, and irrespective of the method by which their wages are paid, except the following:

1. Househelpers, including family drivers and workers in the personal service of another whose conditions of work are prescribed in Republic Act 7655.
2. Workers and employees (a) in retail/service establishments regularly employing not more than ten (10), (b) of distressed establishments, and (c) of other firms or employers as determined by the Board, when specifically exempted from compliance for a period fixed by the Board.
3. Workers of registered Barangay Micro Business Enterprises (BMBEs) with Certificates of Authority issued by the Office of the Municipal or City Treasurer.

## B. Minimum Wage Rates

### DAILY MINIMUM WAGE National Capital Region As of 15 August 2006

NATIONAL CAPITAL REGION					
Cities/Municipalities					
Caloocan, Las Piñas, Makati, Malabon, Mandaluyong, Manila, Marikina, Muntinlupa, Navotas, Parañaque, Pasay, Pasig, Quezon, Taguig, Valenzuela, Pateros, San Juan	Basic Minimum Wage under WO-NCR-12	WO#* NCR-09		WO # NCR-10 07-11-04 ECOLA	Total
		11-05-01 ECOLA**	02-01-02 ECOLA		
<b>Non-agriculture</b>	300.00	15.00	15.00	20.00	350.00
<b>Agriculture</b>					
Plantation	263.00	15.00	15.00	20.00	313.00
Nonplantation	263.00	15.00	15.00	20.00	313.00
<b>Private Hospitals</b>					
With bed capacity of 100 or less	263.00	15.00	15.00	20.00	313.00
<b>Retail/Service Establishments</b>					
Employing 15 workers or less	263.00	15.00	15.00	20.00	313.00
<b>Manufacturing Establishments</b>					
Employing less than 10 workers	263.00	15.00	15.00	20.00	313.00

\* Wage Order

\*\* Emergency Cost-of-Living Allowance

**CURRENT REGIONAL DAILY MINIMUM WAGE RATES**  
(As of 15 August 2006)

Region	WO No./Date of Effectivity	Non-agriculture	Agriculture	
			Plantation	Nonplantation
NCR a/	WO 12/11 July 2006	P313.00–350.00	313.00	313.00
CAR b/	WO 11/1 Aug. 2006	229.00 – 235.00	216.00 - 222.00	216.00 – 222.00
1 q/	WO 11/9 Aug. 2006	180.00 – 225.00	195.00	170.00
2 c/	WO 11/9 Aug. 2006	210.00 – 218.00	198.00 – 206.00	198.00 – 206.00
3 d/	WO 12/3 Aug. 2006	149.00 – 278.00	212.00 – 248.00	192.00 – 232.00
4-A e/	WO 11/7 Aug. 2006	130.00 – 287.00	198.00 – 262.00	178.00 – 242.00
4-B f/	WO 2/4 Aug. 2006	115.00 – 230.00	183.00 – 192.00	163.00 – 172.00
5 g/	WO 11/7 Aug. 2006	173.00 – 220.00	188.00 – 198.00	168.00 – 178.00
6 h/	WO 14/1 Aug. 2006	180.00 – 235.00	185.00 – 203.00	180.00
7 i/	WO 12/2 Aug. 2006	200.00 – 241.00	180.00 – 223.00	180.00 – 223.00
8 j/	WO 13/1 Aug. 2006	189.00 – 220.00	195.00 – 222.00	180.50
9 k/	WO 13/29 July 2006	170.00–215.00	190.00	170.00
10 l/	WO 12/1 Aug. 2006	219.00 – 234.00	207.00 – 222.00	207.00 – 222.00
11 p/	WO 13/27 July 2006	207.00 – 240.00	228.00 – 230.00	207.00 – 209.00
12 m/	WO 13/6 Aug. 2006	206.00 – 224.50	208.00	205.00
CARAGA n/	WO 7/1 Aug. 2006	184.00 – 214.00	204.00	184.00
ARMM o/	WO 9/4 Aug. 2006	200.00	200.00	200.00

a/ Granted P25.00 wage increase

b/ Integrated the P51.00 ECOLA under WOs 5,9 &10 and granted P10.00 wage increase

c/ Granted P10.00 wage increase

d/ Granted additional P10.00-P18.50/day COLA

e/ Granted P3.00-P18.00 wage increase as follows:

P10.00 (Extended Metropolitan Area); P6.00-P18.00 (Growth Corridor Area); P6.00-P14.00 (Emerging Growth Area); and P10.00 and P3.00-P8.00 (Resource-based Area)

f/ Granted P6.00-P14.00 wage increase

g/ Integrated the P15.00 COLA under WO 10 and granted P3.00-P20.00 wage increase

h/ Granted P17.00-P20.00 wage increase

i/ Granted P5.00-P18.00 wage increase

j/ Integrated the P70.00 ECOLA under WO 11 and P11.00 ECOLA under WO 12, and granted P14.00 wage increase in addition to the wage increase through Integration and simplification

k/ Integrated P20.00 COLA under WO12 and granted P15.00 wage increase

l/ Granted P14.00-P18.00 wage increase and reclassified the areas/sectors from II to V wage categories, where the category V provides 'pakyaw rates'

m/ Integrated P6.00, P10.00 and 13.50 ECOLA under WO 12 and granted P6.00-P11.00 COLA

n/ Granted P14.00 wage increase

o/ Integrated the P10.00 COLA under WO 8 and granted 10.00 wage increase

p/ Granted P15.00 wage increase and P1.00 COLA

q/ Integrated the P12.00 COLA under WO 10 and granted P3.00-P13.00 wage increase

### C. Basis

The basis of the minimum wage rates prescribed by law shall be the normal working hours of eight (8) hours a day.

### D. Monthly-Paid Employees and Daily-Paid Employees

Monthly-paid employees are those who are paid every day of the month, including unworked rest days, special days, and regular holidays.

Daily-paid employees are those who are paid on the days they actually worked and on unworked regular holidays.

### E. Computation of the Estimated Equivalent Monthly Rate (EEMR) of Monthly-Paid and Daily-Paid Employees<sup>1</sup>

For monthly-paid employees:

Factor 365 days in a year is used in determining the equivalent annual and monthly salary of monthly-paid employees. To compute their Estimated Equivalent Monthly Rate (EEMR), the procedure is as follows:

$$\frac{\text{Applicable Daily Rate} \times 365}{12} = \text{EEMR}$$

where 365 days/year = **300** ordinary working days  
**51** rest days<sup>2</sup>  
**11** regular holidays  
**3** special days

**365** Total equivalent no. of days in a year

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<sup>1</sup> Please see discussion under 2. Holiday Pay and 3. Premium Pay.

<sup>2</sup> For workers whose rest days fall on Sundays, the number of rest days in a year is reduced from 52 to 51 days, the last Sunday of August (National Heroes Day) being a regular holiday under EO 203.

For daily-paid employees:

The following factors and formula may be used in computing the EEMR of different groups of daily-paid employees for purposes of entitlement to minimum wages and allied benefits under existing laws.

1. For those who are required to work everyday, including Sundays or rest days, special days, and regular holidays

$$\frac{\text{Applicable Daily Rate} \times 392.80}{12} = \text{EEMR}$$

where 392.80 days/year =	<b>300</b>	ordinary working days
	<b>20</b>	ten regular holidays x 200% <sup>3</sup>
	<b>2.60</b>	one regular holiday/rest day x 260% <sup>4</sup>
	<b>66.30</b>	51 rest days x 130%
	<b>3.90</b>	3 special days x 130%
	<hr/>	
	<b>392.80</b>	Total equivalent number of days in a year

2. For those who do not work and are not considered paid on Sundays or rest days

$$\frac{\text{Applicable Daily Rate} \times 314}{12} = \text{EEMR}$$

where 314 days/year	=	<b>300</b>	ordinary working days
		<b>11</b>	regular holidays
		<b>3</b>	special days (if considered paid; if actually worked, this is equivalent to 3.9 days)
		<hr/>	
		<b>314</b>	Total equivalent number of days in a year <sup>5</sup>

3. For those who do not work and are not considered paid on Saturdays and Sundays or rest days

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<sup>3</sup> One or two regular holidays may fall on an employee's rest day.

<sup>4</sup> A regular holiday of movable date may fall on an employee's rest day.

<sup>5</sup> Factor 311 may be used instead of 314, if the two (2) special days under EO 203 and one (1) special day under RA 9256 are not considered paid.

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$$\frac{\text{Applicable Daily Rate} \times 262}{12} = \text{EEMR}$$

where 262 days/year = **248** ordinary working days  
                                   **11** regular holidays  
                                   **3** special days (if considered  
   paid; if actually worked, this  
   is equivalent to 3.9 days)

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**262** Total equivalent number  
of days in a year<sup>6</sup>

## F. Minimum Wage of Workers Paid by Results

All workers paid by results, including homeworkers and those who are paid on piece rate, *takay*, *pakyaw*, or task basis, shall receive not less than the applicable statutory minimum wage rates prescribed under the Regional Wage Orders for normal working hours which shall not exceed eight (8) hours a day, or a proportion thereof.

The wage rates of workers who are paid by results shall continue to be established in accordance with Article 101 of the Labor Code of the Philippines, as amended, and its implementing regulations. This will be done through:

1. Time and motion studies.
2. Consultation with representatives of employers' and workers' organizations in a tripartite conference called by the DOLE Secretary.

Request for the conduct of time and motion studies to determine whether the nontime employees in an enterprise are being paid fair and reasonable wage rates may be filed with proper Regional Office.

Where the output rates established by the employer do not conform with the standards set under the foregoing methods for establishing output rates, the employee shall be entitled to the difference between the amount he or she is entitled to receive and the amount paid by the employer.

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<sup>6</sup> Factor 259 may be used if the two (2) special days under EO 203 and one (1) day under RA 9256 (Ninoy Aquino Day) are not worked and not considered paid.

The adjustment in the wage rates by reason of mandatory wage increase for workers paid by results shall be computed in accordance with the following steps:

1. Amount of increase in Applicable Minimum Wage (AMW)  
 $\text{rate} \div \text{Previous AMW} \times 100 = \% \text{ increase}$
3. Existing rate/piece  $\times$  % increase = Increase in rate/piece
4. Existing rate/piece + increase in rate/piece = Adjusted rate/piece

#### **G. Minimum Wage of Apprentices, Learners and Disabled Workers**

Wages of apprentices and learners shall in no case be less than seventy-five percent (75%) of the applicable statutory wage rates.

Apprentices and learners are those who are covered by apprenticeship/learnership agreements duly approved by the Technical Education and Skills Development Authority (TESDA).

A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits or allowances as a qualified able bodied person (Sec. 5 of RA 7277 or the Magna Carta for Disabled Persons).

#### **H. Minimum Wage of Househelpers (RA 7655)**

The minimum compensation of eight hundred pesos ₱800.00 a month is required for househelpers in the cities of Caloocan, Las Piñas, Makati, Malabon, Mandaluyong, Manila, Marikina, Muntinlupa, Navotas, Parañaque, Pasay, Pasig, Quezon, Taguig, and Valenzuela, and in the municipalities of Pateros and San Juan.

Meanwhile, a compensation of six hundred fifty pesos ₱650.00 a month is required for househelpers in other chartered cities—cities other than Manila, Pasay, Quezon, and Caloocan—highly urbanized cities, and first-class municipalities.

On the other hand, a compensation of five hundred fifty pesos ₱550.00 a month is required for househelpers in other municipalities.



Househelpers who are receiving at least one thousand pesos (₱1,000.00) a month shall be covered by the Social Security System.

Employers shall review the employment contracts of their househelpers every three (3) years with the end in view of improving the terms and conditions thereof.

#### **I. Effect of Reduction of Workdays on Wages**

In situations where the employer has to reduce the number of regular working days to prevent serious losses, such as when there is a substantial slump in the demand for his/her goods or services or when there is lack of raw materials, the employer may deduct the wages corresponding to the days taken off from the workweek, consistent with the principle of no work, no pay. This is without prejudice to an agreement or company policy which provides otherwise.

#### **J. Penalty and Double Indemnity for Violation of the Prescribed Increases or Adjustments in the Wage Rates (RA 8188)**

Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed increases or adjustments in the wage rates made in accordance with RA 6727, shall be punished by a fine of not less than Twenty-five thousand pesos (₱25,000.00) nor more than One hundred thousand pesos (₱100,000.00) or imprisonment of not less than two (2) years nor more than four (4) years, or both such fine and imprisonment at the discretion of the court: *Provided*, That any person convicted hereof shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: *Provided*, That payment of indemnity shall not absolve the employer from the criminal liability imposable hereof.

If the violation is committed by a corporation, trust, firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner.

# 2

## HOLIDAY PAY (Article 94)

### A. Definition

Holiday pay refers to the payment of the regular daily wage for any unworked regular holiday.

### B. Coverage

This benefit applies to all employees except:

1. Government employees, whether employed by the National Government or any of its political subdivisions, including those employed in government-owned and/or –controlled corporations with original charters or created under special laws;
2. Those of retail and service establishments regularly employing less than ten (10) workers;
3. Househelpers and persons in the personal service of another;
4. Managerial employees, if they meet all of the following conditions:
  - 4.1 Their primary duty is to manage the establishment in which they are employed or of a department or subdivision thereof.
  - 4.2 They customarily and regularly direct the work of two or more employees therein.
  - 4.3 They have the authority to hire or fire other employees of lower rank; or their suggestions and recommendations as to hiring, firing, and promotion, or any other change of status of other employees are given particular weight.
5. Officers or members of a managerial staff, if they perform the following duties and responsibilities:
  - 5.1 Primarily perform work directly related to management policies of their employer;
  - 5.2 Customarily and regularly exercise discretion and independent judgment;
  - 5.3 (a) Regularly and directly assist a proprietor or managerial employee in the management of the establishment or subdivision thereof in which he or she is employed; or (b) execute, under general supervision, work along specialized or technical lines requiring

special training, experience, or knowledge; or (c) execute, under general supervision, special assignments and tasks; and

- 5.4 Do not devote more than twenty percent (20%) of their hours worked in a workweek to activities which are not directly and closely related to the performance of the work described in paragraphs 5.1, 5.2, and 5.3 above.
6. Field personnel and other employees whose time and performance is unsupervised by the employer, including those who are engaged on task or contract basis, purely commission basis or those who are paid a fixed amount for performing work irrespective of the time consumed in the performance thereof.

### C. Regular Holidays

Every employee covered by the Holiday Pay Rule is entitled to his/her daily basic wage and ECOLA<sup>7</sup>. This means that the employee is entitled to at least 100% of his/her basic wage (plus ECOLA) even if he/she did not report for work, provided he/she is present or is on leave of absence with pay on the work day immediately preceding the holiday.

Work performed on that day merits at least twice (200%) the basic wage and ECOLA of the employee.

**Illustration:** Using the NCR minimum basic wage rate of ₱350.00 (₱300.00 plus ₱50.00 ECOLA) per day for the non-agricultural sector effective 11 July 2006.

For work within eight (8) hours:

Plus 100% of the daily rate of 100% or a total of 200%  
 $\text{₱350.00} + 100\% \text{ thereof} = \text{₱350.00} + \text{₱350.00} = \text{₱700.00 .00}$   
or  
 $200\% \text{ of } \text{₱350.00} = 2.00 \times \text{₱350.00} = \text{₱700.00}$

Where the holiday falls on the scheduled rest day of the employee, work performed on said day merits at least an additional 30% of the employee's regular holiday rate of 200% or a total of at least 260% (Please see **3. Premium Pay**).

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<sup>7</sup> An employee is entitled to the emergency cost-of-living allowance (ECOLA) if prescribed in the applicable Wage Order during a regular holiday.

When a regular holiday falls on a Sunday, the following Monday shall not be a holiday, unless a proclamation is issued declaring it a special day.

There are eleven (11) regular holidays in a year under Executive Order No. 203, as amended by Republic Act 9177, namely:

New Year's Day	January 1
Maundy Thursday	Movable Date
Good Friday	Movable Date
Araw ng Kagitingan	April 9
Labor Day	May 1
Independence Day	June 12
National Heroes Day	Last Sunday of August
Eid al-Fitr	Movable Date
Bonifacio Day	November 30
Christmas Day	December 25
Rizal Day	December 30

When *Araw ng Kagitingan* falls on the same day as Maundy Thursday or Good Friday, a covered employee is entitled to at least two hundred percent (200%) of his/her basic wage plus ECOLA even if said day is unworked. Where the employee is required to work on that day, he/she is entitled to an additional 100% of the basic wage plus ECOLA.

#### **D. Muslim Holidays**

Presidential Decree 1083 (Code of Muslim Personal Laws of the Philippines), as amended, recognizes the four (4) Muslim holidays, namely:

1. *Imun Jadid* (New Year), which falls on the first day of the lunar month of *Muharram*;
2. *Maulid-un-Nabi* (Birthday of the Prophet Muhammad), which falls on the twelfth day of the third lunar month of *Rabi-ul-Awwal*;
3. *Lailatul Isr' wal Miraj* (Nocturnal Journey and Ascension of the Prophet Muhammad), which falls on the twenty-seventh day of the seventh lunar month of *Rajab*;
4. *Id-ul-Adha* (*Hari Raha Haji*), which falls on the tenth day of the twelfth lunar month of *Dhul-Hijja*.

These official holidays shall be observed in the provinces of Basilan, Lanao del Norte, Lanao del Sur, Maguindanao, North Cotabato, Sultan Kudarat, Sulu, Tawi-Tawi, Zamboanga del Norte and Zamboanga del Sur and in the cities of Cotabato, Iligan, Marawi, Pagadian, and Zamboanga, and in such other Muslim provinces and cities as may be created by law. Upon proclamation by the President of the Philippines, Muslim holidays may also be officially observed in other provinces and cities.

The dates of Muslim holidays shall be determined by the Office of the President of the Philippines in accordance with the Muslim Lunar Calendar (Hijra).

Presidential Proclamation No. 1198 (26 October 1973) provides:

All private corporations, offices, agencies and entities or establishments operating within the provinces and cities enumerated herein shall observe the legal holidays as proclaimed, provided, however, that all Muslim employees working outside of the Muslim provinces and cities shall be excused from work during the observance of the Muslim holidays as recognized by law without diminution or loss of wages during the said period xxx.

Considering that all private corporations, offices, agencies, and entities or establishments operating within the designated Muslim provinces and cities are required to observe Muslim holidays, both Muslims and Christians working within the Muslim areas may not report for work on the days designated by law as Muslim holidays.

## **E. Absences**

1. All covered employees shall be entitled to holiday pay when they are on leave of absence with pay on the work day immediately preceding the regular holiday. Employees who are on leave of absence without pay on the day immediately preceding a regular holiday may not be paid the required holiday pay if they did not work on such regular holiday.
2. Employers shall grant the same percentage of the holiday pay as the benefit granted by competent authority in the form of employee's compensation or social security payment, whichever is higher, if the employees are not reporting for work while on such leave benefits.

3. Where the day immediately preceding the holiday is a non-work day in the establishment or the scheduled rest day of the employee, he/she shall not be deemed to be on leave of absence on that day, in which case he/she shall be entitled to the holiday pay if he/she worked on the day immediately preceding the non-work day or rest day.

#### **F. Successive Regular Holidays**

Where there are two (2) successive regular holidays, like Maundy Thursday and Good Friday, an employee may not be paid for both holidays if he/she absents himself/herself from work on the day immediately preceding the first holiday, unless he/she works on the first holiday, in which case he/she is entitled to his/her holiday pay on the second holiday.

#### **G. Temporary or Periodic Shutdown/Cessation of Work**

In cases of temporary or periodic shutdown and temporary cessation of work of an establishment, as when a yearly inventory or when the repair or cleaning of machineries and equipment is undertaken, the regular holidays falling within the period shall be compensated in accordance with the Rules Implementing the Labor Code, amended.

#### **H. Holiday Pay of Certain Employees**

1. Where the covered employee is paid on piece-rate basis, his/her holiday pay shall not be less than his/her average daily earnings for the last seven (7) actual work days preceding the regular holiday; provided, however, that in no case shall the holiday pay be less than the applicable statutory minimum wage rate.
2. Seasonal workers may not be paid the required holiday pay during off-season when they are not at work.
3. Workers who do not have regular working days, such as stevedores, shall be entitled to this benefit.

# 3

## PREMIUM PAY (Articles 91-93)

### A. Definition

Premium pay refers to the additional compensation for work performed within eight (8) hours on non-work days, such as rest days and special days.

### B. Coverage

This benefit applies to all employees except:

1. Government employees, whether employed by the National Government or any of its political subdivisions, including those employed in government-owned and/or -controlled corporations with original charters or created under special laws;
2. Managerial employees, if they meet all of the following conditions:
  - 2.1 Their primary duty is to manage the establishment in which they are employed or of a department or subdivision thereof.
  - 2.2 They customarily and regularly direct the work of two or more employees therein.
  - 2.3 They have the authority to hire or fire other employees of lower rank; or their suggestions and recommendations as to hiring, firing, and promotion, or any other change of status of other employees are given particular weight.
3. Officers or members of a managerial staff, if they perform the following duties and responsibilities:
  - 3.1 Primarily perform work directly related to management policies of their employer;
  - 3.2 Customarily and regularly exercise discretion and independent judgment;
  - 3.3 (a) Regularly and directly assist a proprietor or managerial employee in the management of the establishment or subdivision thereof in which he or she is employed; or (b) execute, under general supervision, work along specialized or technical lines requiring special training, experience, or knowledge; or (c)

execute, under general supervision, special assignments and tasks; and

- 3.4 Do not devote more than twenty percent (20%) of their hours worked in a workweek to activities which are not directly and closely related to the performance of the work described in paragraphs 3.1, 3.2, and 3.3 above.
4. Househelpers and persons in the personal service of another;
5. Workers who are paid by results, including those who are paid on piece rate, *takay*, *pakyaw*, or task basis, and other nontime work, if their output rates are in accordance with the standards prescribed in the regulations, or where such rates have been fixed by the Secretary of Labor and Employment;
6. Field personnel, if they regularly perform their duties away from the principal or branch office or place of business of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty.

### **C. Special Days**

#### **1. Special Days**

Executive Order No. 203, as amended by RA 9256, lists down three (3) special days that shall be observed in the Philippines as follows:

Ninoy Aquino Day	August 21
All Saints Day	November 1
Last Day of the Year	December 31

The no work, no pay principle applies during special days and on such other special days as may be proclaimed by the President or by Congress.

Workers who are not required or permitted to work on special days are not entitled to any compensation. This, however, is without prejudice to any voluntary practice or provision in the Collective Bargaining Agreement (CBA) providing for payment of wages and other benefits for days declared as special days even if unworked.

On the other hand, work performed on special days merits additional compensation of at least thirty percent (30%) of the basic pay or a total of one hundred thirty percent (130%). Where the employee works on a special day falling on his rest day, he/she shall be entitled to an additional compensation of at least fifty percent (50%) of his/her basic wage or a total of one hundred fifty percent (150%).



## 2. Special Work Days

For work performed on a declared Special Work Day, an employee is entitled only to his/her basic rate. No premium pay is required since work performed on said day is considered work on an ordinary work day.

### D. Premium Pay Rates

The minimum statutory premium pay rates are as follows:

1. For work performed on rest days or on special days:  
Plus 30% of the daily rate of 100% or a total of 130%.
2. For work performed on a rest day which is also a special day:  
Plus 50% of the daily rate of 100% or a total of 150%.
3. For work performed on a regular holiday which is also the employee's rest day (not applicable to employees who are not covered by the holiday-pay rule).  
Plus 30% of the regular holiday rate of 200% based on his/her daily basic wage rate or a total of 260%.

**Illustration:** Using ₱300.00 as daily basic rate (DBR)

1.  $\text{₱}300.00 + (30\% \text{ of } \text{₱} 300.00)$   
 $\text{₱}300.00 + \text{₱}90.00 = \text{₱}390.00$

or

$$130\% \text{ of } \text{₱}300.00 = 1.3 \times \text{₱} 300.00 = \text{₱} 390.00$$

2.  $\text{₱} 300.00 + (50\% \text{ of } \text{₱}300.00)$   
 $\text{₱}300.00 + \text{₱}150.00 = \text{₱}450.00$

or

$$150\% \text{ of } \text{₱} 300.00 = 1.5 \times \text{₱}300.00 = \text{₱}450.00$$

3.  $200\% \text{ of } \text{₱}300.00 + 30\% \text{ of } 200\% \text{ of } \text{₱}300.00$   
 $\text{₱}600.00 + .3 \times (2 \times \text{₱}300.00)$   
 $\text{₱}600.00 + (.3 \times \text{₱} 600)$   
 $\text{₱}600.00 + \text{₱} 180.00 = \text{₱} 780.00 \quad \text{or}$

$$\begin{aligned} &130\% \text{ of } 200\% \text{ of } \text{₱}300.00 \\ &= 1.30 \times .2 \times \text{₱}300.00 = \text{₱} 780.00 \end{aligned}$$

# 4

## OVERTIME PAY (Article 87)

### A. Definition

Overtime pay refers to the additional compensation for work performed beyond eight (8) hours a day.

### B. Coverage

Same as those covered under **3. Premium Pay**.

### C. Overtime Pay Rates

The minimum overtime pay rates vary according to the day the overtime work is performed, as follows:

1. For work in excess of eight (8) hours performed on ordinary working days: Plus 25% of the hourly rate.
2. For work in excess of eight (8) hours performed on a scheduled rest day, a special day, and a regular holiday: Plus 30% of the hourly rate on said days.

**Illustration:** Using ₱300.00 as basic daily rate and ₱37.50 as basic hourly rate.

1. Overtime pay on an ordinary day  
 $\text{₱}37.50 + (25\% \text{ of } \text{₱} 37.50) = \text{₱}37.50 + (0.25 \times \text{₱}37.50)$   
 $\text{₱}37.50 + \text{₱}9.375 = \text{₱} 46.88 \text{ OT/hour}$

or

$$125\% \text{ of } \text{₱}37.50 = 1.25 \times \text{₱}37.50 = \text{₱}46.88 \text{ OT/hour}$$

2. Overtime pay on rest day or on special day  
 $130\% \text{ of } \text{₱} 37.50 + 30\% \text{ of } (130\% \text{ of } \text{₱} 37.50)$   
 $\text{₱}48.75 + \text{₱} 14.62 = \text{₱}63.38 \text{ OT/hr.}$

or

$$\begin{aligned} 130\% \text{ of } (130\% \text{ of } \text{P } 37.50) &= 1.3 \times (1.3 \times \text{P } 37.50) \\ &= 1.3 \times \text{P } 48.75 = \text{P } 63.38 \text{ OT/hr.} \end{aligned}$$

3. Overtime pay on a rest day which falls on a special day  
150% of  $\text{P } 37.50$  + 30% of (150% of  $\text{P } 37.50$ )  
 $\text{P } 56.25 + \text{P } 16.88 = \text{P } 73.12$  OT/hour

or

$$\begin{aligned} 130\% \text{ of } (150\% \text{ of } \text{P } 37.50) &= 1.3 \times (1.5 \times \text{P } 37.50) \\ &= 1.3 \times \text{P } 56.25 = \text{P } 73.12 \text{ OT/hour} \end{aligned}$$

4. Overtime pay on a regular holiday  
200% of  $\text{P } 37.50$  + 30% of (200% of  $\text{P } 37.50$ )  
 $= \text{P } 75.00/\text{hr} + \text{P } 22.50 = \text{P } 97.50$  OT/hour

or

$$\begin{aligned} 130\% \text{ of } (200\% \text{ of } \text{P } 37.50) &= 1.3 \times (2.0 \times \text{P } 37.50) \\ &= 1.3 \times \text{P } 75.00 = \text{P } 97.50 \text{ OT/hour} \end{aligned}$$

5. Overtime pay on a rest day which falls on a regular holiday  
260% of  $\text{P } 37.50$  + 30% of (260% of  $\text{P } 37.50$ )  
 $= \text{P } 97.50/\text{hr} + \text{P } 29.25 = \text{P } 126.75$  OT/hour

or

$$\begin{aligned} 130\% \text{ of } (260\% \text{ of } \text{P } 37.50) &= 1.3 \times (2.6 \times \text{P } 37.50) \\ &= 1.3 \times \text{P } 97.50 = \text{P } 126.75 \text{ OT/hour} \end{aligned}$$

#### **D. Stipulated Overtime Rates**

Generally, the premium pay for work performed on rest days, special days or regular holidays is included as part of the regular rate of the employee in the computation of overtime pay for overtime work rendered on said days, especially if the employer pays only the minimum overtime rates prescribed by law.

The employees and employer, however, may stipulate in their collective agreement the payment for overtime work at rates higher than those provided by law.

# 5

## NIGHT SHIFT DIFFERENTIAL

(Article 86)

### A. Definition

Night Shift Differential (NSD) refers to the additional compensation of ten percent (10%) of an employee's regular wage for each hour of work performed between 10 p.m. and 6 a.m.

### B. Coverage

This benefit applies to all employees except:

1. Government employees, whether employed by the National Government or any of its political subdivisions, including those employed in government-owned and/or -controlled corporations with original charters or created under special laws;
2. Househelpers and persons in the personal service of another;
3. Managerial employees, if they meet all of the following conditions:
  - 3.1 Their primary duty is to manage the establishment in which they are employed or of a department or subdivision thereof.
  - 3.2 They customarily and regularly direct the work of two or more employees therein.
  - 3.3 They have the authority to hire or fire other employees of lower rank; or their suggestions and recommendations as to hiring, firing, and promotion, or any other change of status of other employees are given particular weight.
4. Officers or members of a managerial staff, if they perform the following duties and responsibilities:
  - 4.1 Primarily perform work directly related to management policies of their employer;
  - 4.2 Customarily and regularly exercise discretion and independent judgment;
  - 4.3 (a) Regularly and directly assist a proprietor or managerial employee in the management of the establishment or subdivision thereof in which he or she is employed; or (b) execute, under general supervision, work along specialized or technical lines requiring special training, experience, or knowledge; or (c)

execute, under general supervision, special assignments and tasks; and

4.4 Do not devote more than twenty percent (20%) of their hours worked in a workweek to activities which are not directly and closely related to the performance of the work described in paragraphs 4.1, 4.2, and 4.3 above;

5. Field personnel and those whose time and performance are unsupervised by the employer.

### C. Computation of Night Shift Differential

The table below may be used to facilitate computations:

Work on:	Pay equals	x ₱37.50	8 Hours
Regular day	100% or 1	₱ 37.50	₱ 300.00
Sunday or rest day	130% or 1.3	48.75	390.00
Special day	130% or 1.3	48.75	390.00
Special day falling on rest day	150% or 1.5	56.25	450.00
Holiday	200% or 2	75.00	600.00
Holiday falling on rest day	260% or 2.6	97.50	780.00
Double holiday	300% or 3	112.50	900.00
Double holiday falling on rest day	390% or 3.9	146.25	1,170.50
Regular day, night shift	$1 \times 1.1 = 1.1$ or 110%	41.25	330.00
Rest day, night shift	$1.3 \times 1.1 = 1.43$ or 143%	53.625	429.00
Special day, night shift	$1.3 \times 1.1 = 1.43$ or 143%	53.625	429.00
Special day, rest day, night shift	$1.5 \times 1.1 = 1.65$ or 165%	61.875	495.00
Holiday, night shift	$2 \times 1.1 = 2.2$ or 220%	82.50	660.00
Holiday, rest day, night shift	$2.6 \times 1.1 = 2.86$ or 286%	107.50	858.00
Double holiday, night shift	$3 \times 1.1 = 3.3$ or 330%	123.75	990.00
Double holiday, rest day, night shift	$3.9 \times 1.1 = 4.29$ or 429%	160.875	1,287.00
Regular day, overtime (OT)	$1 \times 1.25 = 1.25$ or 125%	46.875	
Rest day, overtime	$1.3 \times 1.3 = 1.69$ or 169%	63.375	
Special day, overtime	$1.3 \times 1.3 = 1.69$ or 169%	63.375	
Special day, rest day, overtime	$1.5 \times 1.3 = 1.95$ or 195%	73.125	
Holiday, overtime	$2 \times 1.3 = 2.6$ or 260%	97.50	
Holiday, rest day, overtime	$2.6 \times 1.3 = 3.38$ or 338%	126.75	
Double holiday, overtime	$3 \times 1.3 = 3.9$ or 390%	146.25	
Double holiday, rest day, overtime	$3.9 \times 1.3 = 5.07$ or 507%	190.125	
Regular day, night shift, overtime	$1 \times 1.1 \times 1.25 = 1.375$	51.5625	
Rest day, night shift, overtime	$1.3 \times 1.1 \times 1.3 = 1.859$	69.7125	
Special day, night shift, overtime	$1.3 \times 1.1 \times 1.3 = 1.859$	69.7125	
Special day, rest day, night shift, OT	$1.5 \times 1.1 \times 1.3 = 2.145$	80.4375	
Holiday, night shift, overtime	$2 \times 1.1 \times 1.3 = 2.86$	107.25	
Holiday, rest day, night shift, overtime	$2.6 \times 1.1 \times 1.3 = 3.718$	139.425	
Double holiday, night shift, overtime	$3 \times 1.1 \times 1.3 = 4.29$	160.875	
Double holiday, rest day, night shift, OT	$3.9 \times 1.1 \times 1.3 = 5.577$	209.1375	

Cases of night shift pay, using ₱37.50 as the basic hourly rate (₱300.00 divided by 8):

1. Work on regular days

1) Night shift is 10 p.m. to 6 a.m.

Work from 10 p.m. to 6 a.m. =  $\text{₱}37.50 \times 1.1 = \text{₱}41.25$  per hour

Night shift pay =  $\text{₱}41.25 \times 8 = \text{₱}330.00$

Overtime after 6 a.m. =  $\text{₱}37.50 \times 1.375 = \text{₱}51.5625 = \text{₱}51.57$  per hour

2) Night shift is 12 m.n. to 8 a.m.

Work from 12 m.n. to 6 a.m. =  $\text{₱}37.50 \times 1.1 = \text{₱}41.25$  per hour

Work from 6 a.m. to 8 a.m. =  $\text{₱}37.50$  per hour

Night shift pay =  $\text{₱}41.25 \times 6 + \text{₱}37.50 \times 2 = \text{₱}322.50$

3) Work shift is 4 p.m. to 12 p.m.

Work from 4 p.m. to 10 p.m. =  $\text{₱}37.50$  per hour

Work from 10 p.m. to 12 p.m. =  $\text{₱}37.50 \times 1.1 = \text{₱}41.25$  per hour

Work shift pay =  $\text{₱}37.50 \times 6 + \text{₱}41.25 \times 2 = \text{₱}307.50$

4) Work shift is 8 a.m. to 5 p.m. (with one hour meal break), with overtime until midnight

Work from 8 a.m. to 5 p.m. =  $\text{₱}37.50$  per hour

Overtime from 5 p.m. to 10 p.m. =  $\text{₱}37.50 \times 1.25 = \text{₱}46.875$  per hour

Overtime from 10 p.m. to 12 p.m. =  $\text{₱}37.50 \times 1.375 = \text{₱}51.5625$  / hour

2. Work on rest days (nights-off)

Night shift employees are entitled to a weekly night-off (usually Saturday evening) or a weekly rest period of twenty (24) hours beginning at the start of the night shift. This period may be called their rest day or night-off.

1) Night shift is 10 p.m. and 6 a.m.; work rendered on a rest day (night-off)

Work from 10 p.m. to 6 a.m. =  $\text{₱}37.50 \times 1.43 = \text{₱}53.625$  per hour

Night shift pay =  $\text{₱}429.00$

Overtime after 6 a.m. =  $\text{₱}37.50 \times 1.859 = \text{₱}69.7125 = \text{₱}69.72$  per hour

- 2) Night shift is 12 m.n. to 8 a.m.; work rendered on a rest day (night-off)

Work from 12 m.n. to 6 a.m. =  $\text{P}37.50 \times 1.43 = \text{P}53.63$  per hour

Work from 6 a.m. to 8 a.m. =  $\text{P}37.50 \times 1.3 = \text{P}48.75$  per hour

Night shift pay =  $\text{P}53.63 \times 6 + \text{P}48.75 \times 2 = \text{P}419.28$

- 3) Work shift is 4 p.m. to 12 p.m.; work rendered on a rest day

Work from 4 p.m. to 10 p.m. =  $\text{P}37.50 \times 1.3 = \text{P}48.75$  per hour

Work from 10 p.m. to 12 p.m. =  $\text{P}37.50 \times 1.43 = \text{P}53.625$  per hour

Work shift pay =  $\text{P}48.75 \times 6 + \text{P}53.625 \times 2 = \text{P}399.75$

- 4) Work shift is 8 a.m. to 5 p.m. (with one (1) hour meal break); work rendered on a rest day with overtime until midnight

Work from 8 a.m. to 5 p.m. =  $\text{P}37.50 \times 1.3 = \text{P}48.75$  per hour

Rest day pay =  $\text{P}390.00$

Overtime from 5 p.m. to 10 p.m. =  $\text{P}37.50 \times 1.69 = \text{P}63.375$  per hour

Overtime from 10 p.m. to 12 p.m. =  $\text{P}37.50 \times 1.859 = \text{P}69.7125$  / hour

### 3. Work on special days

Night shift employees are also entitled to the premium pay on special days and holidays. These days are reckoned as calendar days which start at midnight and end at the following midnight. The premium pay for the night shift also starts or ends at midnight. However, the employment contract, company policy or collective agreement may provide that in the case of night shift workers, days - including special days and holidays - shall begin on the night before a calendar day. In that case, the computations above (for rest days) will apply.

- 1) (a) Night shift starts at 10 p.m. of a special day and ends at 6 a.m. of the following day

Work from 10 p.m. to 12 p.m. =  $\text{P}37.50 \times 1.43 = \text{P}53.625$  per hour

Work from 12 m.n. to 6 a.m. =  $\text{P}37.50 \times 1.1 = \text{P}41.25$  per hour

Average hourly pay =  $(\text{P}53.625 \times 2 + \text{P}41.25 \times 6) / 8$

=  $\text{P}354.75 / 8 = \text{P}44.34375$  per hour

Overtime after 6 a.m. = hourly rate of first 8 hours  $\times 1.25 = \text{P}55.43$

(b) Night shift starts at 10 p.m. of a regular day and ends at 6 a.m. of a special day

Work from 10 p.m. to 12 m.n. =  $\text{P}37.50 \times 1.1 = \text{P}41.25$  per hour

Work from 12 m.n. to 6 a.m. =  $\text{P}37.50 \times 1.43 = \text{P}53.63$  per hour

Average hourly pay =  $(\text{P}41.25 \times 2 + \text{P}53.625 \times 6) / 8$

=  $\text{P}404.25 / 8 = \text{P}50.53125$  per hour

Overtime after 6 a.m. = hourly rate of first 8 hours  $\times 1.3 = \text{P}65.70$

- 2) Night shift is 12 m.n. to 8 a.m.; work rendered on a special day

Work from 12 m.n. to 6 a.m. =  $\text{P}37.50 \times 1.43 = \text{P}53.625$  per hour

Work from 6 a.m. to 8 a.m. =  $\text{P}37.50 \times 1.3 = \text{P}48.75$  per hour

Night shift pay =  $\text{P}53.625 \times 6 + \text{P}48.75 \times 2 = \text{P}419.25$

- 3) Work shift is 4 p.m. to 12 midnight; work was rendered on a special day

Work from 4 p.m. to 10 p.m. =  $\text{P}37.50 \times 1.3 = \text{P}48.75$  per hour

Work from 10 to 12 p.m. =  $\text{P}37.50 \times 1.43 = \text{P}53.625$  per hour

Work shift pay =  $\text{P}48.75 \times 6 + \text{P}53.625 \times 2 = \text{P}399.75$

- 4) Work shift is 8 a.m. to 5 p.m. (with one hour meal break); work rendered on a special day, with overtime until midnight

Work from 8 a.m. to 5 p.m. =  $\text{P}37.50 \times 1.3 = \text{P}48.75$  per hour

Overtime from 5 to 10 p.m. =  $\text{P}37.50 \times 1.69 = \text{P}63.375$  per hour

Overtime from 10 to 12 p.m. =  $\text{P}37.50 \times 1.859 = \text{P}69.7125$  per hour

#### 4. Work on holidays

Holidays are reckoned as calendar days which start at midnight and end at the next midnight. Hence, the night shift pay changes at midnight.

- 1) (a) Night shift starts at 10 p.m. of a holiday and ends at 6 a.m. of the next day

Work from 10 p.m. to 12 m.n. =  $\text{P}37.50 \times 2.2 = \text{P}82.50$  per hour

Work from 12 m.n. to 6 a.m. =  $\text{P}37.50 \times 1.1 = \text{P}41.25$  per hour

Average hourly rate =  $(\text{P}82.50 \times 2 + \text{P}41.25 \times 6) / 8$

=  $\text{P}412.50$  divided by 8 =  $\text{P}51.5625$  per hour

Overtime after 6 a.m. = hourly rate of first 8 hours  $\times 1.25 = \text{P}64.46$

- (b) Night shift starts at 10 p.m. of a regular day and ends at 6 a.m. of a holiday

Work from 10 p.m. to 12 m.n. =  $\text{P}37.50 \times 1.1 = \text{P}41.25$  per hour



Work from 12 m.n. to 6 a.m. = ₱37.50 x 2.2 = ₱82.50 per hour  
 Average hourly rate = ₱41.25 x 2 + ₱82.50 x 6 +) / 8  
 = ₱577.50 divided by 8 = ₱72.1875 per hour  
 Overtime after 6 a.m. = hourly rate of first 8 hours x 1.3 = ₱93.85

2) Night shift is 12 m.n. to 8 a.m.; work rendered on a holiday

Work from 12 m.n. to 6 a.m. = ₱37.50 x 2.2 = ₱82.50 per hour  
 Work from 6 a.m. to 8 a.m. = ₱37.50 x 2 = ₱75.00 per hour  
 Night shift pay = ₱82.50 x 6 + ₱75.00 x 2 = ₱645.00

3) Work shift is 4 p.m. to 12 p.m.; work rendered on a holiday

Work from 4 p.m. to 10 p.m. = ₱37.50 x 2 = ₱75.00 per hour  
 Work from 10 p.m. to 12 p.m. = ₱37.50 x 2.2 = ₱82.50 per hour  
 Work shift pay = ₱75.00 x 6 + ₱82.50 x 2 = ₱615.00

4) Work shift is 8 a.m. to 5 p.m. (with one hour meal break); work rendered on a holiday, with overtime until midnight

Work from 8 a.m. to 5 p.m. = ₱37.50 x 2 = ₱75.00 per hour  
 Overtime from 5p.m. to 10 p.m. = ₱37.50 x 2.6 = ₱97.50 per hour  
 Overtime from 10 p.m. to 12 p.m. = ₱37.50 x 2.86 = ₱107.25 per hour

5. Work on special days falling on rest days

1) Night shift starts at 10 p.m. of a special day falling on a rest day (night-off) and ends at 6 a.m. of the next day

Work from 10 p.m. to 12 m.n. = ₱37.50 x 1.65 = ₱61.875 per hour  
 Work from 12 m.n. to 6 a.m. = ₱37.50 x 1.43 = ₱53.625 per hour  
 Average hourly rate = ₱61.875 x 2 + ₱53.625 x 6) / 8  
 = ₱445.50 divided by 8 = ₱55.6875  
 Overtime after 6 a.m. = hourly rate of first 8 hours x 1.3 = ₱72.40

2) Night shift is 12 m.n. to 8 a.m.; work rendered on a special day falling on a rest day (night-off)

Work from 12 m.n. to 6 a.m. = ₱37.50 x 1.65 = ₱61.875 per hour  
 Work from 6 a.m. to 8 a.m. = ₱37.50 x 1.5 = ₱56.25 per hour  
 Night shift pay = ₱61.875 x 6 + ₱56.25 x 2 = ₱483.75

3) Work shift is 4 p.m. to 12 p.m.; work rendered on a special day falling on a rest day

Work from 4 p.m. to 10 p.m. = ₱37.50 x 1.5 = ₱56.25 per hour

Work from 10 p.m. to 12 p.m. =  $\text{P}37.50 \times 1.65 = \text{P}61.875$  per hour  
Work shift pay =  $\text{P}56.25 \times 6 + \text{P}61.875 \times 2 = \text{P}461.25$

- 4) Work shift is 8 a.m. to 5 p.m. (with one hour meal break); work rendered on a special day falling on a rest day, with overtime until midnight

Work from 8 a.m. to 5 p.m. =  $\text{P}37.50 \times 1.5 = \text{P}56.25$  per hour  
Overtime from 5 p.m. to 10 p.m. =  $\text{P}37.50 \times 1.95 = \text{P}73.125$  per hour  
Overtime from 10 p.m. to 12 p.m. =  $\text{P}37.50 \times 2.145 = \text{P}80.4375$  / hour

#### 6. Work on holidays falling on rest days

- 1) Night shift starts at 10 p.m. of a holiday falling on a rest day (night-off) and ends at 6 a.m. of the next day

Work from 10 p.m. to 12 m.n. =  $\text{P}37.50 \times 2.86 = \text{P}107.25$  per hour  
Work from 12 m.n. to 6 a.m. =  $\text{P}37.50 \times 1.43 = \text{P}53.625$  per hour  
Average hourly rate =  $(\text{P}107.25 \times 2 + \text{P}53.625 \times 6) / 8$   
=  $\text{P}536.25$  divided by 8 =  $\text{P}67.03$   
Overtime after 6 a.m. = hourly rate of first 8 hours  $\times 1.3 = \text{P}87.14$

- 2) Night shift is 12 m.n. to 8 a.m.; work rendered on a holiday falling on a rest day (night-off)

Work from 12 m.n. to 6 a.m. =  $\text{P}37.50 \times 2.86 = \text{P}107.25$  per hour  
Work from 6 a.m. to 8 a.m. =  $\text{P}37.50 \times 2.6 = \text{P}97.50$  per hour  
Night shift pay =  $\text{P}107.25 \times 6 + \text{P}97.50 \times 2 = \text{P}838.50$

- 3) Work shift is 4 p.m. to 12 p.m.; work rendered on a holiday falling on a rest day

Work from 4 p.m. to 10 p.m. =  $\text{P}37.50 \times 2.6 = \text{P}97.50$  per hour  
Work from 10 p.m. to 12 p.m. =  $\text{P}37.50 \times 2.86 = \text{P}107.25$  per hour  
Work shift pay =  $\text{P}97.50 \times 6 + \text{P}107.25 \times 2 = \text{P}799.50$

- 4) Work shift is from 8 a.m. to 5 p.m. (with one hour meal break); work rendered on a holiday falling on a rest day, with overtime until midnight

Work from 8 a.m. to 5 p.m. =  $\text{P}37.50 \times 2.06 = \text{P}97.50$  per hour  
Overtime from 5 p.m. to 10 p.m. =  $\text{P}37.50 \times 3.38 = \text{P}126.75$  per hour  
Overtime from 10 p.m. to 12 p.m. =  $\text{P}37.50 \times 3.718 = \text{P}139.425$  / hour

# 6

## SERVICE CHARGES

(Article 96)

### A. Sharing

All rank-and-file employees of employers collecting service charges are entitled to an equal share in the eighty-five percent (85%) of the total of such charges. The remaining fifteen percent (15%) of the charges may be retained by management to answer for losses and breakages and for distribution to managerial employees, at the discretion of the management in the latter case. Service charges are collected by most hotels and some restaurants, night clubs, cocktail lounges, among others.

### B. Payments

The shares of the employees in the service charges shall be distributed to them once every two (2) weeks or twice a month at intervals not exceeding sixteen (16) days.

Where the company stopped collecting service charges, the average share previously enjoyed by the employees for the past twelve (12) months immediately preceding such stoppage shall be integrated into their basic wages.

### C. Tips

Where a restaurant or similar establishment does not collect service charges but has a practice or policy of monitoring and pooling tips given voluntarily by its customers to its employees, the pooled tips should be monitored, accounted, and distributed in the same manner as the service charges.

# 7

## SERVICE INCENTIVE LEAVE (Article 95)

### A. Coverage

Every employee who has rendered at least one (1) year of service is entitled to Service Incentive Leave (SIL) of five (5) days with pay.

This benefit applies to all employees except:

1. Government employees, whether employed by the National Government or any of its political subdivisions, including those employed in government-owned and/or -controlled corporations with original charters or created under special laws;
2. Househelpers and persons in the personal service of another;
3. Managerial employees, if they meet all of the following conditions:
  - 3.2 Their primary duty is to manage the establishment in which they are employed or of a department or subdivision thereof.
  - 3.2 They customarily and regularly direct the work of two or more employees therein.
  - 3.3 They have the authority to hire or fire other employees of lower rank; or their suggestions and recommendations as to hiring, firing, and promotion, or any other change of status of other employees are given particular weight.
4. Officers or members of a managerial staff, if they perform the following duties and responsibilities:
  - 4.1 Primarily perform work directly related to management policies of their employer;
  - 4.2 Customarily and regularly exercise discretion and independent judgment;
  - 4.3 (a) Regularly and directly assist a proprietor or managerial employee in the management of the establishment or subdivision thereof in which he or she is employed; or (b) execute, under general supervision, work along specialized or technical lines requiring special training, experience, or knowledge; or (c) execute, under general supervision, special assignments and tasks; and

- 4.4 Do not devote more than twenty percent (20%) of their hours worked in a workweek to activities which are not directly and closely related to the performance of the work described in paragraphs 4.1, 4.2, and 4.3 above;
5. Field personnel and those whose time and performance is unsupervised by the employer;
6. Those already enjoying this benefit;
7. Those enjoying vacation leave with pay of at least five (5) days; and
8. Those employed in establishments regularly employing less than ten (10) employees.

#### **B . Meaning of “one year of service”**

The phrase one year of service of the employee means service within twelve (12) months, whether continuous or broken, reckoned from the date the employee started working. The period includes authorized absences, unworked weekly rest days, and paid regular holidays. If through individual or collective agreement, company practice or policy, the period of the working days is less than twelve (12) months, said period shall be considered as one year for the purpose of determining the entitlement to the service incentive leave.

#### **C. Usage/Conversion to Cash**

The service incentive leave may be used for sick and vacation leave purposes. The unused service incentive leave is commutable to its money equivalent at the end of the year. In computing, the basis shall be the salary rate at the date of conversion.

The use and conversion of this benefit may be on a pro rata basis.

**Illustration<sup>8</sup>:** An employee was hired on 1 January 2000 and resigned on 1 March 2001. Assuming that he/she has not used or commuted any of his/her accrued SIL, he/she is entitled to the conversion of his/her accrued SIL, upon his/her resignation, as follows:

SIL earned as of 31 December 2000	5 days
Proportionate SIL for January and February 2001 (2/12) x 5 days	<u>0.833 day</u>
Total accrued SIL as of 1 March 2001	<b>5.833 days</b>

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<sup>8</sup> Based on the opinion of DOLE Legal Service

# 8

## MATERNITY LEAVE (RA 1161, as amended by RA 8282)

### A. Coverage

This benefit applies to all female employees, whether married or unmarried.

### B. Entitlement

Every pregnant employee in the private sector, whether married or unmarried, is entitled to maternity leave benefit of **sixty (60) days** in case of normal delivery or miscarriage, or **seventy-eight (78) days**, in case of Caesarian section delivery, with benefits equivalent to **one hundred percent (100%) of the average daily salary credit** of the employee as defined under the law.

To be entitled to the maternity leave benefit, a female employee should be an SSS member employed at the time of her delivery or miscarriage; she must have given the required notification to the SSS through her employer; and her employer must have paid at least three monthly contributions to the SSS within the twelve-month period immediately before the date of the contingency (i.e., childbirth or miscarriage).

The maternity leave benefit, like other benefits granted by the Social Security System (SSS), is granted to employees in lieu of wages. Thus, this may not be included in computing the employee's thirteenth-month pay for the calendar year.

# 9

## PATERNITY LEAVE (RA 8187)

### **A. Coverage**

Paternity Leave is granted to all married male employees in the private sector, regardless of their employment status (e.g., probationary, regular, contractual, project basis). The purpose of this benefit is to allow the husband to lend support to his wife during her period of recovery and/or in nursing her newborn child.

Government employees are also entitled to the paternity leave benefit. They shall be governed by the Civil Service rules.

### **B. The Paternity Leave Benefit**

Paternity leave benefit shall apply to the first four (4) deliveries of the employee's lawful wife with whom he is cohabiting. For this purpose, cohabiting means the obligation of the husband and wife to live together.

If the spouses are not physically living together because of the work station or occupation, the male employee is still entitled to the paternity leave benefit.

The paternity leave shall be for seven (7) calendar days, with full pay, consisting of basic salary and mandatory allowances fixed by the Regional Wage Board, if any, provided that his pay shall not be less than the mandated minimum wage.

Usage of the paternity leave shall be after the delivery, without prejudice to an employer's policy of allowing the employee to avail of the benefit before or during the delivery, provided that the total number of days shall not be more than seven (7) calendar days for each covered delivery.

### **C. Conditions for Entitlement**

A married male employee shall be entitled to paternity leave benefit provided that he has met the following conditions:

1. He is an employee at the time of the delivery of his child;

2. He is cohabiting with his spouse at the time that she gives birth or suffers a miscarriage;
3. He has applied for paternity leave with his employer within a reasonable period of time from the expected date of delivery by his pregnant spouse, or within such period as may be provided by company rules and regulations, or by collective bargaining agreement; and
4. His wife has given birth or suffered a miscarriage.

#### **D. Application for Paternity Leave**

The married male employee shall apply for paternity leave with his employer within a reasonable period of time from the expected date of delivery by his pregnant spouse, or within such period as may be provided by company rules and regulations, or by collective bargaining agreement. In case of a miscarriage, prior application for paternity leave shall not be required.

#### **E. Nonconversion to Cash**

In the event that the paternity leave is not availed of, it shall not be convertible to cash and shall not be cumulative.

#### **F. Crediting of Existing Benefits**

1. If the existing paternity leave benefit under the collective bargaining agreement, contract, or company policy is greater than seven (7) calendar days as provided for in RA 8187, the greater benefit shall prevail.
2. If the existing paternity leave benefit is less than that provided in RA 8187, the employer shall adjust the existing benefit to cover the difference.

Where a company policy, contract, or collective bargaining agreement provides for an emergency or contingency leave without specific provisions on paternity leave, the employer shall grant to the employee seven (7) calendar days of paternity leave.



# 10

## PARENTAL LEAVE FOR SOLO PARENTS (RA 8972)

### A. Coverage

Parental leave for solo parents is granted to any solo parent or individual who is left alone with the responsibility of parenthood due to:

1. Giving birth as a result of rape or, as used by the law, other crimes against chastity;
2. Death of spouse;
3. Spouse is detained or is serving sentence for a criminal conviction for at least one (1) year;
4. Physical and/or mental incapacity of spouse as certified by a public medical practitioner;
5. Legal separation or de facto separation from spouse for at least one (1) year: Provided that he/she is entrusted with the custody of the children;
6. Declaration of nullity or annulment of marriage as decreed by a court or by a church: Provided, that he/she is entrusted with the custody of the children;
7. Abandonment of spouse for at least one (1) year;
8. Unmarried father/mother who has preferred to keep and rear his/her child/children, instead of having others care for them or give them up to a welfare institution;
9. Any other person who solely provides parental care and support to a child or children: Provided, that he/she is duly licensed as a foster parent by the Department of Social Welfare and Development (DSWD) or duly appointed legal guardian by the court; and
10. Any family member who assumes the responsibility of head of family as a result of the death, abandonment, disappearance, or prolonged absence of the parents or solo parent: Provided, that such abandonment, disappearance, or prolonged absence lasts for at least one (1) year.

### B. Definition of Terms

Parental leave shall mean leave benefits granted to a solo parent to enable him/her to perform parental duties and responsibilities where physical presence is required.

Child refers to a person living with and dependent on the solo parent for support. He/she is unmarried, unemployed, and below eighteen (18) years of age, or even eighteen (18) years old and above but is incapable of self-support because he/she is mentally-and/or physically-challenged.

### **C. The Parental Leave Benefit**

The parental leave, in addition to leave privileges under existing laws, shall be for seven (7) work days every year, with full pay, consisting of basic salary and mandatory allowances fixed by the Regional Wage Board, if any, provided that his/her pay shall not be less than the mandated minimum wage.

### **D. Conditions for Entitlement**

A solo parent employee shall be entitled to the parental leave, provided that:

1. He/she has rendered at least one (1) year of service, whether continuous or broken;
2. He/she has notified his/her employer that he/she will avail himself/herself of it, within a reasonable period of time; and
3. He/she has presented to his/her employer a Solo Parent Identification Card, which may be obtained from the DSWD office of the city or municipality where he/she resides.

### **E. Nonconversion to Cash**

In the event that the parental leave is not availed of, it shall not be convertible to cash, unless specifically agreed on previously.

### **F. Crediting of Existing Leave**

If there is an existing or similar benefit under a company policy or a collective bargaining agreement, the same shall be credited as such. If the same is greater than the seven (7) days provided for in RA 8972, the greater benefit shall prevail.

Emergency or contingency leave provided under a company policy or a collective bargaining agreement shall not be credited as compliance with the parental leave provided for under RA 8972.

#### **G. Termination of the Benefit**

A change in the status or circumstance of the parent claiming the benefit under the law, such that he/she is no longer left alone with the responsibility of parenthood, shall terminate his/her eligibility for this benefit.

#### **H. Protection Against Work Discrimination**

No employer shall discriminate against any solo parent employee with respect to terms and conditions of employment on account of his/her being a solo parent.

# 11

## LEAVE FOR VICTIMS OF VIOLENCE AGAINST WOMEN AND THEIR CHILDREN (RA 9262)

### **A. Definition**

Violence against women and their children, as used in Republic Act 9262 (the Anti-Violence Against Women and Their Children Act of 2004 ), refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which will result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.

### **B. Coverage and Purpose**

Private sector women employees who are victims as defined in RA 9262 shall be entitled to the paid leave benefit under such terms and conditions provided herein.

The leave benefit shall cover the days that the woman employee has to attend to medical and legal concerns.

### **C. Requirement for Entitlement**

To be entitled to the leave benefit, the only requirement is for the victim-employee to present to her employer a certification from the Punong Barangay (barangay chairman) or barangay kagawad (barangay councilor) or prosecutor or the Clerk of Court, as the case may be, that an action relative to the matter is pending.

#### **D. The Benefit**

In addition to other paid leaves under existing labor laws, company policies, and/or collective bargaining agreements, the qualified victim-employee shall be entitled to a leave of up to ten (10) days with full pay, consisting of basic salary and mandatory allowances fixed by the Regional Wage Board, if any.

The said leave shall be extended when the need arises, as specified in the protection order issued by the barangay or the court.

#### **E. Usage of the Benefit**

The usage of the ten-day leave shall be at the option of the woman employee. In the event that the leave benefit is not availed of, it shall not be convertible into cash and shall not be cumulative.

# 12

## THIRTEENTH-MONTH PAY (PD 851)

### **A. Coverage**

All employers are required to pay their rank and file employees thirteenth-month pay, regardless of the nature of their employment and irrespective of the methods by which their wages are paid, provided they worked for at least one (1) month during a calendar year. The thirteenth-month pay should be given to the employees not later than December 24 of every year.

### **B. Definition of Rank-and-File Employees**

The Labor Code, as amended, distinguishes a rank-and-file employee from a managerial employee. A managerial employee is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, layoff, recall, discharge, assign, or discipline employees, or to effectively recommend such managerial actions. All employees not falling within this definition are considered rank-and-file employees.

The above distinction shall be used as guide for the purpose of determining who are rank-and-file employees entitled to the thirteenth-month pay.

### **C. Minimum Amount**

The thirteenth-month pay shall not be less than one-twelfth (1/12) of the total basic salary earned by an employee in a calendar year.

The "basic salary" of an employee for the purpose of computing the thirteenth-month pay shall include all remunerations or earnings paid by his or her employer for services rendered. It does not include allowances and monetary benefits which are not considered or integrated as part of the regular or basic salary, such as the cash equivalent of unused vacation and sick leave credits, overtime, premium, night shift differential and holiday pay, and cost of living allowance (COLA). However, these salary-related benefits should be included as part of the basic salary in the computation of the thirteenth-month pay if these are treated as part of the basic salary

of the employees, through individual or collective agreement, company practice or policy.

#### **D. Exempted Employers**

The following employers are not covered by PD 851:

1. The government and any of its political subdivisions, including government-owned and -controlled corporations, except those corporations operating essentially as private subsidiaries of the government;
2. Employers who are already paying their employees thirteenth-month pay or more in a calendar year or its equivalent at the time of the issuance of PD 851;
3. Employers of househelpers and persons in the personal service of another in relation to such workers; and
4. Employers of those who are paid on purely commission, boundary or task basis, and those who are paid a fixed amount for performing specific work, irrespective of the time consumed in the performance thereof (except those workers who are paid on piece-rate basis, in which case their employer shall grant them thirteenth-month pay).

As used herein, workers paid on piece-rate basis shall refer to those who are paid a standard amount for every piece or unit of work produced that is more or less regularly replicated, without regard to the time spent in producing the same.

The term "its equivalent" as used in item D.2 above shall include Christmas bonus, midyear bonus, cash bonuses, and other payments amounting to not less than one-twelfth (1/12) of the basic salary but shall not include cash and stock dividends, cost of living allowance, and all other allowances regularly enjoyed by the employee, as well as nonmonetary benefits.

#### **E. Time of Payment of Thirteenth-Month Pay**

The thirteenth-month pay shall be paid not later than December 24 of every year. An employer, however, may give to his or her employees one-half (1/2) of the thirteenth-month pay before the opening of the regular school year and the remaining half on or before December 24 of every year. The frequency of payment of this monetary benefit may be the subject of an agreement between

the employer and the recognized/collective bargaining agent of the employees.

#### **F. Thirteenth-Month Pay for Certain Types of Employees**

1. Employees who are paid on piecework basis are entitled to the thirteenth-month pay.
2. Employees who are paid a fixed or guaranteed wage plus commission are also entitled to the thirteenth-month pay, based on their earnings during the calendar year (i.e., on both their fixed or guaranteed wage and commission).

In the consolidated cases of *Boie Takeda Chemicals, Inc. vs. Dionisio de la Serna*, G.R. No. 92174 December 10, 1993, and *Philippine Fuji Xerox Corporation vs. Cresenciano B. Trajano and Philippine Fuji Xerox Employees Union*, G.R. No. 102552 December 10, 1993, the Supreme Court ruled that commissions, while included in the generic term *wage*, are not part of "basic salary/wage" and therefore should not be included in computing the thirteenth-month pay. Thus:

In remunerative schemes consisting of a fixed or guaranteed wage plus commission, the fixed or guaranteed wage is patently the "basic salary" for this is what the employee receives for a standard work period. Commissions are given for extra efforts exerted in consummating sales or other related transactions. They are, as such, additional pay, which this Court has made clear do not form part of the "basic salary" (228 SCRA 329 [1993]).

3. Employees with multiple employers

Government employees working part-time in a private enterprise, including private educational institutions, as well as employees working in two or more private firms, whether on full-time or part-time basis, are entitled to the thirteenth-month pay from all their private employers, regardless of their total earnings from each of their employers.

#### **G. Thirteenth-Month Pay of Resigned or Separated Employee**

An employee who has resigned or whose services are terminated at any time before the time of payment of the thirteenth-month pay is entitled to this monetary benefit in proportion to the length of time



he or she has worked during the year, reckoned from the time he or she has started working during the calendar year up to the time of his or her resignation or termination from the service. Thus, if he or she worked only from January to September, his or her proportionate thirteenth-month pay should be equal to one-twelfth (1/12) of his or her total basic salary earned during that period.

#### **H. Non-inclusion in Regular Wage**

The mandated thirteenth-month pay need not be credited as part of the regular wage of employees for purposes of determining overtime and premium payments, fringe benefits, as well as contributions to the State Insurance Fund, Social Security System, Medicare, and private retirement plans.

# 13

## SEPARATION PAY (Articles 283-84)

Separation pay is given to employees in instances covered by Articles 283 and 284 of the Labor Code of the Philippines. An employee's entitlement to separation pay depends on the reason or ground for the termination of his or her services. An employee may be terminated for just cause (i.e., gross and habitual neglect of duty, fraud, or commission of a crime), and other similar causes as enumerated under Article 282 of the Labor Code and, generally, may not be entitled to separation pay<sup>9</sup>. On the other hand, where the termination is for authorized causes, separation pay is due.

### **A. One-Half Month Pay per Year of Service**

An employee is entitled to receive a separation pay equivalent to one-half (1/2) month pay for every year of service, a fraction of at least six months being considered as one (1) whole year, if his/her separation from the service is due to any of the following authorized causes:

1. Retrenchment to prevent losses (i.e., reduction of personnel effected by management to prevent losses);
2. Closure or cessation of operation of an establishment not due to serious losses or financial reverses; and
3. When the employee is suffering from a disease not curable within a period of six (6) months and his/her continued employment is prejudicial to his/her health or to the health of his/her co-employees.

In no case will an employee get less than one (1) month separation pay if the separation is due to the above stated causes, and he/she has served for at least six (6) months.

Thus, if an employee had been in the service for at least six (6) months but less than a year, he/she is entitled to one (1) full month's pay as his/her separation pay if his/her separation is due to any of the causes enumerated above.

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<sup>9</sup> The Supreme Court has ruled in certain cases that separation pay shall be granted the workers.

## **B. One-Month Pay per Year of Service**

An employee is entitled to separation pay equivalent to his/her one-month pay for every year of service, a fraction of at least six (6) months being considered as one whole year, if his/her separation from service is due to any of the following:

1. Installation by employer of labor-saving devices;
2. Redundancy, as when the position of the employee has been found to be excessive or unnecessary in the operation of the enterprise;
3. Impossible reinstatement of the employee to his or her former position or to a substantially equivalent position for reasons not attributable to the fault of the employer, as when the reinstatement ordered by a competent authority cannot be implemented due to closure or cessation of operations of the establishment/employer, or the position to which he or she is to be reinstated no longer exists and there is no substantially equivalent position in the establishment to which he or she can be assigned<sup>10</sup>.

## **C. Notice of Termination**

The employer may terminate the employment of any employee due to the above-mentioned authorized causes by serving a written notice on the employee and the Department of Labor and Employment through its regional office having jurisdiction over the place of business at least one (1) month before the intended date thereof.

## **D. Basis of Separation Pay**

The computation of separation pay of an employee shall be based on his/her latest salary rate.

## **E. Inclusion of Regular Allowance in the Computation**

In the computation of separation pay, it would be error not to integrate the allowance with the basic salary. The salary base properly used in computing the separation pay should include not just the basic salary but also the regular allowances that an employee has been receiving<sup>11</sup>.

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<sup>10</sup> Gaco vs. NLRC, et al., G.R. No. 104690, February 23, 1994

<sup>11</sup> Planters' Products, Inc. vs. NLRC, G.R. No. 78524, January 20, 1989

# 14

## RETIREMENT PAY

(Article 287, as amended by RA 7641)

### A. Coverage

1. Employees shall be retired upon reaching the age of sixty (60) years or more but not beyond sixty-five (65) years old (and have served the establishment for at least five (5) years).
2. This benefit applies to all employees except:
  - 1) government employees;
  - 2) employees of retail, service and agricultural establishments/operations regularly employing not more than ten (10) employees.
3. Retirement Age for Underground Mine Employees under Republic Act 8558

The retirement age of underground mine employees has been reduced to a much lower age. For this purpose, an underground mine employee refers to any person employed to extract mineral deposits underground or to work in excavations or workings such as shafts, winzes, tunnels, drifts, crosscuts, raises, working places whether abandoned or in use beneath the earth's surface for the purpose of searching for and extracting mineral deposits.

In the absence of a retirement plan or other applicable agreement providing for retirement benefits of underground mine employees in the establishment, an employee may retire upon reaching the compulsory retirement age of sixty (60) years or upon optional retirement at the age of fifty (50) years, provided he/she has served for at least five (5) years as an underground mine employee or in underground mine of the establishment.

### B. Amount of Retirement Pay

The minimum retirement pay shall be equivalent to one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one (1) whole year.

For the purpose of computing retirement pay, "one-half month salary" shall include all of the following:

1. Fifteen (15) days salary based on the latest salary rate;
2. Cash equivalent of five (5) days of service incentive leave;
3. One-twelfth (1/12) of the thirteenth-month pay or a total of 22.5 days<sup>12</sup>.

Other benefits may be included in the computation of the retirement pay upon agreement of the employer and the employee or if provided in the Collective Bargaining Agreement (CBA).

***Illustration:***

One-half month salary = (15 days x latest salary per day) +  
(5 days leave x latest salary per day)  
+ (1/12 of thirteenth-month pay)

Minimum Retirement Pay = number of years in service x  
one-half month salary

or

Minimum Retirement Pay = Daily Rate x 22.5 days x number of  
years in service

For covered workers who are paid by results and do not have a fixed monthly salary rate, the basis for the determination of the salary for fifteen (15) days shall be their average daily salary (ADS). The ADS is derived by dividing the total salary or earnings for the last twelve months reckoned from the date of retirement by the number of actual working days in that particular period, provided that the determination of rates of payment by results are in accordance with the established regulations.

**C. Retirement under a Collective Bargaining Agreement/  
Applicable Contract**

Any employee may retire or be retired by his or her employer upon reaching the retirement age established in the CBA or other applicable agreement/contract and shall receive the retirement benefits granted therein; provided, however, that such retirement benefits shall not be less than the retirement pay required under RA

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<sup>12</sup> Capitol Wireless, Inc. vs. Honorable Secretary Ma. Nieves R. Confesor, G.R. No. 117174, November 13, 1996

7641, and provided further that if such retirement benefits under the agreement are less, the employer shall pay the difference.

Where both the employer and the employee contribute to a retirement fund pursuant to the applicable agreement, the employer's total contributions and the accrued interest thereof should not be less than the total retirement benefits to which the employee would have been entitled had there been no such retirement benefits' fund. If such total portion from the employer is less, the employer shall pay the deficiency.

#### **D. Retirement of Part-time Workers**

Part-time workers are also entitled to retirement pay of one-month salary for every year of service under RA 7641 after satisfying the following conditions precedent for optional retirement: (a) there is no retirement plan between the employer and the employee, (b) the employee should have reached the age of sixty (60) years, and should have rendered at least five (5) years of service with the employer.

Applying the foregoing principle, the components of retirement benefit of part-time workers may likewise be computed at least in proportion to the salary and related benefits due them.

#### **E. Other Benefits upon Retirement**

The retirement benefits under RA 7641 and RA 8558 are separate and distinct from those granted by the Social Security System.

Under the law, upon optional or compulsory retirement, the employee is also entitled to the proportionate thirteenth-month pay for the calendar year and to the cash equivalent of accrued leave benefits.

# 15

## BENEFITS UNDER THE EMPLOYEES' COMPENSATION PROGRAM (PD 626)

### A . The Employees' Compensation Program

The Employees' Compensation Program (ECP) is a government program designed to provide a package of benefits for public and private sector employees and their dependents in the event of work-related contingencies such as sickness, injury, disability, or death.<sup>13</sup>

### B. Coverage

The ECP covers all workers in the formal sector.

Coverage in the ECP starts on the first day of employment.

Employees in the private sector who are registered members of the Social Security System (SSS), except self-employed workers and voluntary members of the SSS.

### C. The Benefits

**Loss of income benefit** or a cash benefit given to a worker to compensate for lost income due to his or her inability to work.

**Medical benefits** which include the reimbursement of the cost of medicine for the illness or injury, payments to providers of medical care, hospital care, surgical expenses, and the costs of appliances and supplies where necessary. The medical services are limited to ward services of an accredited hospital.

**Rehabilitation services** include physical therapy, vocational training, and special assistance provided to employees who sustain

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<sup>13</sup> For more information, please write or call the **Employees' Compensation Commission** (ECC), Information and Public Assistance Division, located at 355 Sen. Gil Puyat Avenue, Makati City. Telephone Nos. 899-4251 to 52 locals 227 and 228; Fax: 897-7597. Public Assistance Center (PAC) Telephone No. 899-4251. Email: [ecc\\_mis@info.com.ph](mailto:ecc_mis@info.com.ph). Website: [www.ecc.gov.ph](http://www.ecc.gov.ph)

a disability as a result of sickness or injury arising out of employment. The objective is to develop the workers' mental, vocational, and social potential and to help them remain as productive members of society.

**Carer's allowance** which is provided to an employee who suffers a permanent total disability (PTD) arising out of employment the extent of which is such that he or she could not on his or her own attend to his or her basic personal needs.

**Death benefits** which are granted to beneficiaries of an employee who dies as a result of sickness or injury arising out of employment. When a worker on PTD status dies, his or her primary beneficiaries shall receive eighty percent (80%) of his or her monthly income benefit plus ten percent (10%) for every dependent child but not exceeding five (5).

#### **D. Kinds of Disability**

There are three (3) types of loss of income benefits:

**Temporary Total Disability (TTD)** benefit which is given to an employee who is unable to work for a continuous period not exceeding 120 days.

**Permanent Partial Disability (PPD)** benefit which is given to a worker who loses a body part and consequently the loss of the use of that body part.

**Permanent Total Disability (PTD)** benefit which is given if the employee's inability to work lasts for more than 240 days. PTD benefit can be claimed in the following cases:

1. complete loss of vision;
2. loss of two limbs at or above the ankles or wrists;
3. permanent and complete paralysis of two limbs, and
4. brain injury resulting in incurable imbecility or insanity, if caused by work.

#### **E. Filing of Claims**

Employees can claim only for work-connected sickness, injuries, or death.



**Who may file:** The claimant or his/her representative may file an appropriate claim with the GSIS, in case of public sector claimant, or with the SSS, in case of private sector claimant.

**When:** A claim may be filed within three (3) years from the date of the occurrence of the contingency (i.e., sickness, injury, or death).

**How:** Fill in the prescribed forms supplied by the GSIS or SSS and attach the supporting documents required for every contingency.

**Where:** A claim may be filed at any GSIS branch office, for government employees, or at any SSS branch office, for employees in the private sector.

***Period of Appeal.*** The claimant shall file with the GSIS or the SSS, as the case may be, a notice of appeal within thirty (30) calendar days from receipt of the decision.

#### **F. Obligations/Responsibilities of Employers**

1. **Contribution to the State Insurance Fund (SIF).** – The employer shall contribute in behalf of his or her employees to the SIF, from which payments for benefits are drawn.
2. **Registration.** – Every employer (and every employee as well) shall be registered with the GSIS or SSS by accomplishing the prescribed forms.
3. **Safety Devices.** – The employer shall comply with health and safety laws and shall take the necessary precautions for the prevention of work-related disability or death.
4. **Employer's Logbook.** – The employer is required to maintain a logbook to contain his or her employees' sickness, injuries, disabilities, and deaths. Notification of such contingencies to the GSIS or SSS shall be made within five (5) days from the date of contingency.
5. **Deprivations Clause.** – No contract, regulation, or device whatsoever shall operate to deprive the employee or his/her dependents of any part of the ECP compensation package.

# 16

## PHILHEALTH BENEFITS

(RA 7875, as amended by RA 9241)

### A. The National Health Insurance Program

The National Health Insurance Program (NHIP), formerly known as Medicare, is a health insurance program for SSS members and their dependents whereby the healthy subsidize the sick who may find themselves in need of financial assistance when they get hospitalized.

The Philippine Health Insurance Corporation or PhilHealth<sup>14</sup> is the mandated administrator of the Medicare program under the National Health Insurance Act of 1995 (Republic Act 7875).

### B. Coverage

The program covers the following:

1. Employed Members – all those employed in the government and private sector.
2. Individually Paying Members – self-employed, overseas Filipino workers, professionals in private practice (doctors, lawyers, dentists, etc.)
3. Non-paying Members – the following are entitled to lifetime coverage:
  - Retirees and pensioners of the GSIS and SSS (including permanent total disability and survivorship pensioners of the SSS) prior to the effectivity of RA 7875 on March 4, 1995.

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<sup>14</sup> For inquiries on Medicare coverage, benefits and procedures for SSS members, you may visit Philhealth at the City State Centre Bldg., 709 Shaw Blvd., Barangay Oranbo, Pasig City or call telephone number 637-9999. You may also visit the PhilHealth web site at <http://www.philhealth.gov.ph>.

- Members who have reached the retirement age and have paid at least 120 monthly contributions. Optional Retirees (under RA1616, PD 1146 or PD 1184) are not yet entitled to lifetime coverage until they reach the age of retirement (60 years old).
4. Indigent Members – under the indigent component of the NHIP.

### **C. The Benefits**

A unified benefit package for all PhilHealth members is being implemented which includes the following categories of personal health services:

#### **1. Inpatient hospital care:**

Room and board;  
Services of health care professionals;  
Diagnostic, laboratory, and other medical examination services;  
Use of surgical or medical equipment and facilities;  
Prescription drugs and biologicals, subject to the limitations stated in Section 37 of RA 7875; and  
Inpatient education packages.

#### **2. Outpatient care:**

Services of health care professionals;  
Diagnostic, laboratory, and other medical examination services;  
Personal preventive services;  
Prescription drugs and biologicals, subject to the limitations described in Section 37 of RA 7875; and  
Emergency and transfer services.

UNIFIED MEDICARE BENEFITS			
For all Members and Dependents under the National Health Insurance the Program			
BENEFITS	HOSPITAL CATEGORY		
	PRIMARY	SECONDARY	TERTIARY
ROOM AND BOARD	₱200	₱300	₱400
Not exceeding 45 days for each member & another 45 days to be shared by his/her dependents			
DRUGS & MEDICINES	1,500 2,500 0	1,700 4,000 8,000	3,000 9,000 16,000
Per single period of confinement			
a. Ordinary			
b. Intensive			
c. Catastrophic			
PROFESSIONAL FEES	₱150/day for General Practitioner ₱250/day for Specialist		
Per single period of confinement shall not exceed:			
a. Ordinary	600 1,000	600 1,000	600 1,000
General Practitioner Specialist			
b. Intensive	900 1,500	900 1,500	900 1,500
General Practitioner Specialist			
c. Catastrophic	900 1,500	900 1,500	900 1,500
General Practitioner Specialist			
OTHERS	385 0 0	670 1,140 2,160	1,060 1,350 3,490
Operating Room			
a. RVU of 30 and below			
b. RVU of 31 to 80			
c. RVU of 31 and above			
Surgeon	Maximum of ₱16,000		
Anesthesiologist	Maximum of ₱5,000		
Compensable Outpatient Services:			
Ambulatory surgeries and procedures including dialysis, radiotherapy and chemotherapy TB DOTS			

Philhealth Benefits (Last Update: February 21, 2005)

# 17

## SOCIAL SECURITY BENEFITS

(RA 1161, as amended by RA 8282)

### A. The Social Security Program

The Social Security Program<sup>15</sup> provides a package of benefits in the event of death, disability, sickness, maternity and old age. Basically, the SSS provides for a replacement of income lost on account of the aforementioned contingencies.

### B. Coverage

A private employee, whether permanent, temporary or provisional;

A household helper earning at least P1,000 a month is subject to compulsory coverage starting Sept. 1, 1993.

### C. The Benefits

#### C.1 *Sickness*

The sickness benefit is a daily cash allowance paid for the number of days a member is unable to work due to sickness or injury.

A member is qualified to avail himself/herself of this benefit if:

1. he/she is unable to work due to sickness or injury and is thus confined either in the hospital or at home for at least four days;
2. he/she has paid at least three monthly contributions within the 12-month period immediately before the semester of sickness;
3. he/she has used up all current company sick leaves with pay for the current year; and
4. he/she has notified his/her employer.

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<sup>15</sup> For inquiries on SSS benefits and other related matters, you may visit the SSS at SSS Building, East Avenue, Diliman, Quezon City or its nearest branch office. You may also call telephone numbers 920-6401 or 920-6446 or visit its website at [www.sss.gov.ph](http://www.sss.gov.ph) or e-mail at [member\\_relations@sss.gov.ph](mailto:member_relations@sss.gov.ph).

The amount of an employee's sickness benefit is computed as: the daily sickness allowance times the approved number of days.

Effective May 24, 1997, the daily sickness allowance is 90 per cent of the average daily salary credit (*Section 14 of Republic Act 8282*).

#### C.2. *Maternity* (see 8. Maternity Leave)

#### C.3. *Disability*

It is a cash benefit paid to a member who becomes permanently disabled, either partially or totally.

A member who suffers partial or total permanent disability, with at least one (1) contribution paid to the SSS prior to the semester of contingency, is qualified.

The complete and permanent loss of use of any of the following parts of the body under permanent partial disability:

one thumb	sight of one eye	one big toe
one index finger	hearing of one ear	one hand
one middle finger	hearing of both ears	one arm
one ring finger	one foot	one ear
one little finger	one leg	both ears

The following fall under permanent total disability:

1. Complete loss of sight of both eyes;
2. Loss of two limbs at or above the ankle or wrists;
3. Permanent complete paralysis of two limbs;
4. Brain injury causing insanity; and
5. Other cases as determined and approved by the SSS.

Types of disability benefits:

1. The monthly pension which is paid to a disabled member who has paid at least 36 monthly contributions to the SSS; and
2. The lump sum amount which is granted to those who have not paid the required 36 monthly contributions.

#### C.4. *Retirement*

It is a cash benefit paid to a member who can no longer work due to old age.

A member is qualified to avail himself of this benefit if:

- b. He/she is 60 years old and unemployed and has paid at least 120 monthly contributions prior to the semester of retirement.
- b. he/she is 65 years old, whether employed or not. If employed he/she should have paid 120 monthly contributions prior to the semester of retirement, whether employed or not.

The types of retirement benefits are:

- a. the monthly pension, and
- b. the lump sum amount.

The monthly pension is a lifetime cash benefit paid to a retiree who has paid at least 120 monthly contributions to the SSS prior to the semester of retirement.

The lump sum amount is granted to a retiree who has not paid the required 120 monthly contributions.

#### *C.5. Death & Funeral*

The death benefit is a cash paid to the beneficiaries of a deceased member.

The primary beneficiaries are the legitimate dependent spouse until he or she remarries and legitimate, legitimated, legally adopted or illegitimate dependent children of the member. In the absence of primary beneficiaries, the secondary beneficiaries are the dependent parents of the member. In their absence, the person designated by the member as beneficiary in his/her member's record will be the recipient.

The types of death benefits are:

- 1. the monthly pension; and
- 2. the lump sum amount.

The monthly pension is granted only to the primary beneficiaries of a deceased member who had paid 36 monthly contributions before the semester of death.

The lump sum is the amount granted to the primary beneficiaries of a deceased member who had paid less than 36 monthly contributions before the semester of death.

## Directory of DOLE Regional Offices

<b>National Capital Region (NCR)</b> 2/F, 3/F, 4/F, DY International Bldg., 1650 San Marcelino St. cor. Gen. Malvar St., Malate, Manila Tel. # (02) 400-6242 Telefax (02) 400-6242 <b>dolencr_planning@yahoo.com</b>	<b>Cordillera Administrative Region (CAR)</b> Cabinet Hills, 2600 Baguio City Tel. # (074) 442-2447 Telefax (074) 443-5339 <b>dolecar88@pltdtsl.net</b> <b>dole-car@pltdtsl.net</b>
<b>Region 1</b> LDC Tower, Ancheta St. cor. Mabini St., San Fernando City, 2500 La Union Tel. # (072) 700-2520 Telefax (072) 700-2520 <b>dolero1@digitelone.com</b>	<b>Region 2</b> Turingan Bldg., Caritan Centro, Tuguegarao City, 3500 Cagayan Tel. # (078) 844-1364/844-1383/ 844-5516 Telefax (078) 844-1553 <b>ad_services_ro2@yahoo.com</b>
<b>Region 3</b> 3/F, Ascorp Bldg., McArthur Highway, Dolores San Fernando City, 2000 Pampanga Tel. # (045) 961-1305 Telefax (045) 961-2195 <b>dolero3@mail.irnet.net.ph</b>	<b>Region 4-A</b> 3/F & 4/F, Anderson Bldg. II, Barangay Parian Calamba City, 4027 Laguna Tel. # (049) 545-7357 Telefax (049) 545-7360 <b>lmsd@mozcom.com</b>
<b>Region 4-B</b> 3/F, Ben-Lor Bldg. 1184 Quezon Avenue, Quezon City Tel. # (02) 374-7972 Telefax (02) 374-7974 <b>doleregion4b@pacific.net.ph</b> <b>dolemimaropa@pacific.net.ph</b>	<b>Region 5</b> ANST Bldg., Capt. F. Aquenda Drive 4500 Legazpi City Tel. # (052) 820-4806 Telefax (052) 820-3507 <b>dolero5@yahoo.com</b>
<b>Region 6</b> 2/F & 3/F, St. Clemens Bldg., Luna St., La Paz, 5000 Iloilo City Tel. # (033) 320-6906 Telefax (033) 320-8026 <b>doleregion6@yahoo.com</b>	<b>Region 7</b> 2/F, GMC Plaza Bldg., M. J. Cuenco Avenue cor. Legaspi St., 6000 Cebu City Tel. # (032) 253-0638 Telefax (032) 253-1381 <b>dolero7@cvis.net.ph</b>
<b>Region 8</b> Trece Martinez St. 6500 Tacloban City Tel. # (053) 325-5236 Telefax (053) 325-6295 <b>dolero8@mail.eveis.net</b>	<b>Region 9</b> Wee Agro Bldg., Veterans Avenue 7000 Zamboanga City Tel. # (062) 993-1877 Telefax (062) 991-2672; 991-2673 <b>dole_region_9@yahoo.com</b> <b>dole9zam@pltdtsl.net</b>
<b>Region 10</b> 2/F, Gonzalo Go Bldg., Corrales Avenue 9000 Cagayan de Oro City Tel. (088) 857-2218 Telefax (08822) 727-682 <b>dole10@websprinter.net</b>	<b>Region 11</b> LDL Bldg., Bangoy St., 8000 Davao City Tel. # (082) 227-8772 Telefax (082) 226-2671 <b>dolexidavao@yahoo.com</b>
<b>Region 12</b> 102 Acepal Bldg., Mabini Extension, Koronadal City, 9600 South Cotabato Tel. # (064) 421-3348/421-3040 Telefax (064) 421-3766 <b>dolexii@cotabato.mozcom.com</b>	<b>Region 13</b> CARAGA Regional Office 3/F, LCT Bldg., P. Burgos St. 8600 Butuan City Tel. # (085) 225-3229 Telefax (085) 225-3229 <b>dolexiii@sky.net</b>



# The BWC

The Bureau of Working Conditions (BWC) is responsible for the formulation and development of labor standards in the areas of wages, occupational safety and health, and hours of work.

In May 1982, the Bureau of Labor Standards which was created in June 1957 under Reorganization Plan No. 20-A, was renamed the Bureau of Working Conditions. The BWC performs all functions in relation to the formulation of policies and enforcement of labor standards performed by the then Wage Administrative Service and the Industrial Safety Division of the Bureau of Labor.

## Vision

The Bureau of Working Conditions (BWC) envisions well-guided employers and workers committed to a safe, healthful, and productive work environment, adaptive to industry trends and developments, and equitably enjoying the gains of joint endeavors.

## Mission

To formulate policies and initiate legislations on labor standards based on relevant information culled from monitoring, consultations, networking, and researches.

To standardize the use of enforcement instruments and to clothe the inspectorate system with strong enforcement authority to ensure compliance with laws and regulations.

To develop and sustain the capability of enterprises toward self-management of safety and health in workplaces, thus, upholding the principle of shared responsibility between workers and employers.

To enhance the capability of small enterprises in implementing practical and efficient methods of improving working conditions and productivity.

To inform and advise the public on labor standards, including occupational safety and health, and on innovative work practices or arrangements.