

# THE 2005 REVISED RULES OF PROCEDURE OF THE NATIONAL LABOR RELATIONS COMMISSION

Pursuant to the provisions of Article 218 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, the following Revised Rules of Procedure governing arbitration proceedings before the Labor Arbiters and the Commission are hereby adopted and promulgated:

## RULE I

### TITLE AND CONSTRUCTION

SECTION 1. TITLE OF THE RULES. - These Rules shall be known as the "2005 Revised Rules of Procedure of the National Labor Relations Commission".

SECTION 2. CONSTRUCTION. - These Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and other relevant legislations, and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of labor disputes.

SECTION 3. SUPPLEMENTARY APPLICATION OF THE RULES OF COURT. - In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of the Labor Code, the pertinent provisions of the Rules of Court of the Philippines may, in the interest of expeditious dispensation of labor justice and whenever practicable and convenient, be applied by analogy or in a supplementary character and effect.

## RULE II

### DEFINITION OF TERMS

SECTION 1. DEFINITIONS. - The terms and phrases defined in Article 212 of the Labor Code, as amended, shall be given the same meanings when used herein.

As used herein, "Regional Arbitration Branch" shall mean any of the regional arbitration branches or sub-regional branches of the Commission.

## RULE III

### PLEADINGS, NOTICES AND APPEARANCES

SECTION 1. COMPLAINT. - a) A complaint or petition is a pleading alleging the cause or causes of action of the complainant or petitioner. The names and addresses of all complainants or petitioners and respondents must be stated in the complaint or petition. It shall be signed under oath by the complainant or petitioner, with a declaration of non-forum shopping.

b) A party having more than one cause of action against the other party, arising out of the same relationship, shall include all of them in one complaint or petition.

c) No amendment of the complaint or petition shall be allowed after the filing of position papers, unless with leave of the Labor Arbiter or the Commission.

SECTION 2. CAPTION AND TITLE. - In all cases filed with the Commission or with any of its Regional Arbitration Branches, the party initiating the action shall be called the

"Complainant" or "Petitioner", and the opposing party the "Respondent".

The full names of all the real parties in interest, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint or petition, as well as in the decisions, resolutions or orders of the Labor Arbiter or the Commission.

SECTION 3. ISSUANCE OF SUMMONS. - Within two (2) days from receipt of a complaint or amended complaint, the Labor Arbiter shall issue the required summons, attaching thereto a copy of the complaint or amended complaint. The summons shall specify the date, time and place of the mandatory conciliation and mediation conference in two (2) settings.

SECTION 4. PROHIBITED PLEADINGS AND MOTIONS. - The following pleadings and motions shall not be allowed and acted upon nor elevated to the Commission in all cases covered by these Rules:

- a) Motion to dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, improper venue, *res adjudicata*, prescription and forum shopping;
- b) Motion for a bill of particulars;
- c) Motion for new trial;
- d) Petition for relief from judgment when filed with the Labor Arbiter;
- e) Petition for *certiorari*, *mandamus* or prohibition;
- f) Motion to declare respondent in default;
- g) Motion for reconsideration or appeal from any interlocutory order of the Labor Arbiter.

SECTION 5. FILING AND SERVICE OF PLEADINGS. - All pleadings in connection with the case shall be filed with the appropriate docketing unit of the Regional Arbitration Branch or the Commission, as the case maybe.

The party filing the pleadings shall serve the opposing parties with a copy thereof and its supporting documents in the manner provided for in these Rules with proof of service thereof.

SECTION 6. SERVICE OF NOTICES AND RESOLUTIONS. - a) Notices or summons and copies of orders, shall be served on the parties to the case personally by the Bailiff or duly authorized public officer within three (3) days from receipt thereof or by registered mail; Provided that in special circumstances, service of summons may be effected in accordance with the pertinent provisions of the Rules of Court; Provided further, that in cases of decisions and final awards, copies thereof shall be served on both parties and their counsel or representative by registered mail; Provided further that in cases where a party to a case or his counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected upon actual receipt thereof; Provided finally, that where parties are so numerous, service shall be made on counsel and upon such number of complainants, as may be practicable, which shall be considered substantial compliance with Article 224 (a) of the Labor Code, as amended.

For purposes of appeal, the period shall be counted from receipt of such decisions, resolutions, or orders by the counsel or representative of record.

b) The Bailiff or officer serving the notice, order, resolution or decision shall submit his return within two (2) days from date of service thereof, stating legibly in his return his name, the names of the persons served and the date of receipt, which return shall be immediately

attached and shall form part of the records of the case. In case of service by registered mail, the Bailiff or officer shall write in the return, the names of persons served and the date of mailing of the resolution or decision. If no service was effected, the service officer shall state the reason therefor in the return.

SECTION 7. PROOF AND COMPLETENESS OF SERVICE. - The return is *prima facie* proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time.

SECTION 8. APPEARANCES. - a) A lawyer appearing for a party is presumed to be properly authorized for that purpose. In every case, he shall indicate in his pleadings and motions his Attorney's Roll Number, as well as his PTR and IBP numbers for the current year.

b) A non-lawyer may appear as counsel in any of the proceedings before the Labor Arbiter or Commission only under the following conditions:

- (1) he represents himself as party to the case;
- (2) he represents a legitimate labor organization, as defined under Article 212 and 242 of the Labor Code, as amended, which is a party to the case: Provided, that he presents: (i) a certification from the Bureau of Labor Relations (BLR) or Regional Office of the Department of Labor and Employment attesting that the organization he represents is duly registered and listed in the roster of legitimate labor organizations; (ii) a verified certification issued by the secretary and attested to by the president of the said organization stating that he is authorized to represent the said organization in the said case; and (iii) a copy of the resolution of the board of directors of the said organization granting him such authority;
- (3) he represents a member or members of a legitimate labor organization that is existing within the employer's establishment, who are parties to the case: Provided, that he presents: (i) a verified certification attesting that he is authorized by such member or members to represent them in the case; and (ii) a verified certification issued by the secretary and attested to by the president of the said organization stating that the person or persons he is representing are members of their organization which is existing in the employer's establishment;
- (4) he is a duly-accredited member of any legal aid office recognized by the Department of Justice or Integrated Bar of the Philippines: Provided, that he (i) presents proof of his accreditation; and (ii) represents a party to the case;
- (5) he is the owner or president of a corporation or establishment which is a party to the case: Provided, that he presents: (i) a verified certification attesting that he is authorized to represent said corporation or establishment; and (ii) a copy of the resolution of the board of directors of said corporation, or other similar resolution or instrument issued by said establishment, granting him such authority.

c) A non-lawyer who appears in contravention of this Section shall not be recognized in any proceedings before the Labor Arbiter or the Commission.

d) Appearances may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made on record and the adverse party or his counsel or representative properly notified.

e) Any change in the address of counsel or representative should be filed with the records of the case and furnished the adverse party or counsel.

f) Any change or withdrawal of counsel or representative shall be made in accordance with the Rules of Court.

SECTION 9. AUTHORITY TO BIND PARTY. - Attorneys and other representatives of parties shall have authority to bind their clients in all matters of procedure; but they cannot, without a special power of attorney or express consent, enter into a compromise agreement with the opposing party in full or partial discharge of a client's claim.

## RULE IV

### VENUE, ASSIGNMENT AND DISPOSITION OF CASES

SECTION 1. VENUE. - a) All cases which Labor Arbiters have authority to hear and decide may be filed in the Regional Arbitration Branch having jurisdiction over the workplace of the complainant or petitioner.

For purposes of venue, the workplace shall be understood as the place or locality where the employee is regularly assigned at the time the cause of action arose. It shall include the place where the employee is supposed to report back after a temporary detail, assignment, or travel. In case of field employees, as well as ambulant or itinerant workers, their workplace is where they are regularly assigned, or where they are supposed to regularly receive their salaries and wages or work instructions from, and report the results of their assignment to, their employers.

b) Where two (2) or more Regional Arbitration Branches have jurisdiction over the workplace of the complainant or petitioner, the Branch that first acquired jurisdiction over the case shall exclude the others.

c) When venue is not objected to before the filing of position papers such issue shall be deemed waived.

d) The venue of an action may be changed or transferred to a different Regional Arbitration Branch other than where the complaint was filed by written agreement of the parties or when the Commission or Labor Arbiter before whom the case is pending so orders, upon motion by the proper party in meritorious cases.

e) Cases involving overseas Filipino workers may be filed before the Regional Arbitration Branch having jurisdiction over the place where the complainant resides or where the principal office of any of the respondents is situated, at the option of the complainant.

SECTION 2. RAFFLE AND ASSIGNMENT OF CASES. - a) All complaints and petitions filed with the docket unit of the Regional Arbitration Branch shall be immediately raffled and assigned to a Labor Arbiter from receipt thereof.

b) The Executive Labor Arbiter shall be responsible for the immediate raffle and assignment of all complaints and petitions filed with his Regional Arbitration Branch, and the immediate forwarding of all subsequent pleadings and motions.

c) All pleadings and motions subsequent to the filing of the complaint shall be forwarded to the Labor Arbiter before whom the case is pending within twenty-four (24) hours from receipt thereof.

SECTION 3. CONSOLIDATION OF CASES AND COMPLAINTS. - Where there are two or more cases or complaints pending before different Labor Arbiters in the same Regional Arbitration Branch involving the same employer and common principal causes of action, or the same parties with different causes of action, the subsequent cases or complaints shall be consolidated with the first to avoid unnecessary costs or delay. Such consolidated cases or complaints shall be disposed of by the Labor Arbiter to whom the first case was assigned.

In case of objection to the consolidation, the same shall be resolved by the Executive Labor Arbiter. An order resolving a motion or objection to consolidation shall be inappealable.

SECTION 4. DISPOSITION OF CASES. - Subject to the provisions of Article 263 (g) of the Labor Code, as amended, when a case is assigned to a Labor Arbiter, the entire case and any or all incidents thereto shall be considered assigned to him; and the same shall be disposed of in the same proceedings to avoid multiplicity of suits or proceedings.

When the Secretary of Labor and Employment has assumed jurisdiction over a strike or lockout or certified the same to the Commission, the parties to such dispute shall immediately inform the Secretary or the Commission, as the case may be, of all cases directly related to the dispute between them pending before any Regional Arbitration Branch, and the Labor Arbiters handling the same of such assumption or certification. The Labor Arbiter concerned shall forward within two (2) days from notice the entire records of the case to the Commission or to the Secretary of Labor, as the case may be, for proper disposition.

## RULE V

### PROCEEDINGS BEFORE LABOR ARBITERS

SECTION 1. JURISDICTION OF LABOR ARBITERS. - Labor Arbiters shall have original and exclusive jurisdiction to hear and decide the following cases involving all workers, whether agricultural or non-agricultural:

- a) Unfair labor practice cases;
- b) Termination disputes;
- c) If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;
- d) Claims for actual, moral, exemplary and other forms of damages arising from employer-employee relations;
- e) Cases arising from any violation of Article 264 of the Labor Code, as amended, including questions involving the legality of strikes and lockouts;
- f) Except claims for employees compensation not included in the next succeeding paragraph, social security, medicare, and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding Five Thousand Pesos (P5,000.00), whether or not accompanied with a claim for reinstatement;
- g) Money claims arising out of employer-employee relationship or by virtue of any law or contract, involving Filipino workers for overseas deployment, including claims for actual, moral, exemplary and other forms of damages;
- h) Wage distortion disputes in unorganized establishments not voluntarily settled by the parties pursuant to Republic Act No. 6727;
- i) Enforcement of compromise agreements when there is non-compliance by any of the parties pursuant to Article 227 of the Labor Code, as amended; and
- j) Other cases as may be provided by law.

Cases arising from the interpretation or implementation of collective bargaining

agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration, as may be provided in said agreements.

SECTION 2. NATURE OF PROCEEDINGS. - The proceedings before the Labor Arbiter shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The Labor Arbiter may avail himself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

SECTION 3. MANDATORY CONCILIATION AND MEDIATION CONFERENCE. - a) The mandatory conciliation and mediation conference shall be called for the purpose of (1) amicably settling the case upon a fair compromise; (2) determining the real parties in interest; (3) determining the necessity of amending the complaint and including all causes of action; (4) defining and simplifying the issues in the case; (5) entering into admissions or stipulations of facts; and (6) threshing out all other preliminary matters. The Labor Arbiter shall preside and take full control of the proceedings.

b) Conciliation and mediation efforts shall be exerted by the Labor Arbiters all throughout the proceedings. Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsel or authorized representative, if any, before the Labor Arbiter.

c) In any case, the compromise agreement shall be approved by the Labor Arbiter, if after explaining to the parties, particularly to the complainants, the terms, conditions and consequences thereof, he is satisfied that they understand the agreement, that the same was entered into freely and voluntarily by them, and that it is not contrary to law, morals, and public policy.

d) A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties and shall have the force and effect of a judgment rendered by the Labor Arbiter.

e) The mandatory conciliation and mediation conference shall, except for justifiable grounds, be terminated within thirty (30) calendar days from the date of the first conference.

f) No motion for postponement shall be entertained except on meritorious grounds.

SECTION 4. EFFECT OF FAILURE OF CONCILIATION AND MEDIATION. - Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the mandatory conciliation and mediation conference, the Labor Arbiter shall terminate the conciliation and mediation stage and proceed to pursue the other purposes of the said conference as enumerated in the immediately preceding Section. Thereafter, the Labor Arbiter shall direct the parties to simultaneously file their respective position papers on the issues agreed upon by the parties and as reflected in the minutes of the proceedings.

SECTION 5. NON-APPEARANCE OF PARTIES. - The non-appearance of the complainant or petitioner during the two (2) settings for mandatory conciliation and mediation conference scheduled in the summons, despite due notice thereof, shall be a ground for the dismissal of the case without prejudice.

In case of non-appearance by the respondent during the first scheduled conference, the second conference shall proceed as scheduled in the summons. If the respondent still fails to appear at the second conference despite being duly served with summons, the Labor Arbiter shall immediately terminate the mandatory conciliation and mediation conference. The Labor Arbiter shall thereafter allow the complainant or petitioner to file his verified position paper and submit evidence in support of his causes of action, and thereupon render his decision on the basis of the evidence on record.

SECTION 6. MOTION TO DISMISS. - On or before the date set for the mandatory conciliation and mediation conference, the respondent may file a motion to dismiss. Any motion to dismiss on the ground of lack of jurisdiction, improper venue, or that the cause of action is barred by prior judgment, prescription, or forum shopping, shall be immediately resolved by the Labor Arbiter through a written order. An order denying the motion to dismiss, or suspending its resolution until the final determination of the case, is not appealable.

SECTION 7. SUBMISSION OF POSITION PAPER AND REPLY. - a) Subject to Sections 4 and 5 of this Rule, the Labor Arbiter shall direct the parties to submit simultaneously their verified position papers with supporting documents and affidavits, if any, within an inextendible period of ten (10) calendar days from the date of termination of the mandatory conciliation and mediation conference.

b) The position papers of the parties shall cover only those claims and causes of action raised in the complaint or amended complaint, excluding those that may have been amicably settled, and accompanied by all supporting documents, including the affidavits of witnesses, which shall take the place of their direct testimony.

c) A reply may be filed by any party within ten (10) calendar days from receipt of the position paper of the adverse party.

d) In their position papers and replies, the parties shall not be allowed to allege facts, or present evidence to prove facts and any cause or causes of action not referred to or included in the original or amended complaint or petition.

SECTION 8. DETERMINATION OF NECESSITY OF HEARING OR CLARIFICATORY CONFERENCE. - Immediately after the submission by the parties of their position paper or reply, as the case may be, the Labor Arbiter shall, *motu proprio*, determine whether there is a need for a hearing or clarificatory conference. At this stage, he may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

SECTION 9. ROLE OF THE LABOR ARBITER IN HEARING AND CLARIFICATORY CONFERENCE. - a) The Labor Arbiter shall take full control and personally conduct the hearing or clarificatory conference. Unless otherwise provided by law, the Labor Arbiter shall determine the order of presentation of evidence by the parties, subject to the requirements of due process. He shall examine the parties and their witnesses with respect to the matters at issue; and ask questions only for the purpose of clarifying points of law or fact involved in the case. He shall limit the presentation of evidence to matters relevant to the issue before him and necessary for a just and speedy disposition of the case.

b) In the cross-examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Labor Arbiter shall be allowed.

c) The Labor Arbiter shall make a written summary of the proceedings, including the substance of the evidence presented, in consultation with the parties. The written summary shall be signed by the parties and shall form part of the records.

SECTION 10. NON-APPEARANCE OF PARTIES, AND POSTPONEMENT OF HEARINGS AND CLARIFICATORY CONFERENCES. - a) Non-appearance at a hearing or clarificatory conference by the complainant or petitioner, who was duly notified thereof, may be sufficient cause to dismiss the case without prejudice. Subject to Section 16 of this Rule, where proper justification is shown by proper motion to warrant the re-opening of the case, the Labor Arbiter shall call another hearing or clarificatory conference and continue the proceedings until the case is finally decided. The dismissal of the case for the second time due to the unjustified non-appearance of the complainant or petitioner, who was duly notified of the clarificatory hearing, shall be with prejudice.

b) In case the respondent fails to appear during the hearing or clarificatory conference despite due notice thereof, the complainant shall be allowed to present evidence *ex-parte*, without prejudice to cross-examination at the next hearing or conference. Two (2) successive non-appearances by the respondent during his scheduled presentation of evidence or opportunity to cross-examine witnesses, despite due notice thereof, shall be construed as a waiver on his part to present evidence or conduct cross-examination.

c) The parties and their counsels appearing before the Labor Arbiter shall be prepared for continuous hearing or clarificatory conference. No postponement or continuance shall be allowed by the Labor Arbiter, except upon meritorious grounds and subject always to the requirement of expeditious disposition of cases. In any case, the hearing or clarificatory conference shall be terminated within ninety (90) calendar days from the date of the initial hearing or conference.

d) Paragraph (c) of this Section notwithstanding, in cases involving overseas Filipino workers, the aggregate period for conducting the mandatory conciliation and mediation conference, including hearing on the merits or clarificatory conference, shall not exceed sixty (60) days, which shall be reckoned from the date of acquisition of jurisdiction by the Labor Arbiter over the person of the respondents.

SECTION 11. SUBMISSION OF THE CASE FOR DECISION. - Upon the submission by the parties of their position papers or replies, or the lapse of the period to submit the same, the case shall be deemed submitted for decision unless the Labor Arbiter calls for a hearing or clarificatory conference in accordance with Section 8 of this Rule, in which case, notice of hearing or clarificatory conference shall be immediately sent to the parties. Upon termination of the said hearing or conference, the case shall be deemed submitted for decision.

SECTION 12. INHIBITION. - A Labor Arbiter may voluntarily inhibit himself from the resolution of a case and shall so state in writing the legal justifications therefor. Upon motion of a party, either on the ground of relationship within the fourth civil degree of consanguinity or affinity with the adverse party or counsel, or on question of impartiality, the Labor Arbiter may inhibit himself from further hearing and deciding the case. Such motion shall be resolved within five (5) days from the filing thereof. An order denying or granting a motion for inhibition is inappealable.

SECTION 13. PERIOD TO DECIDE CASE. - The Labor Arbiter shall render his decision within thirty (30) calendar days, without extension, after the submission of the case by the parties for decision, even in the absence of stenographic notes; Provided however, that cases involving overseas Filipino workers shall be decided within ninety (90) calendar days after the filing of the complaint which shall commence to run upon acquisition by the Labor Arbiter of jurisdiction over the respondents.

SECTION 14. CONTENTS OF DECISIONS. - The decisions and orders of the Labor Arbiter shall be clear and concise and shall include a brief statement of the: a) facts of the case; b) issues involved; c) applicable laws or rules; d) conclusions and the reasons therefor; and e) specific remedy or relief granted. In cases involving monetary awards, the decisions or orders of the Labor Arbiter shall contain the amount awarded.

In case the decision of the Labor Arbiter includes an order of reinstatement, it shall likewise contain: a) a statement that the reinstatement aspect is immediately executory; and b) a directive for the employer to submit a report of compliance within ten (10) calendar days from receipt of the said decision.

SECTION 15. MOTIONS FOR RECONSIDERATION AND PETITIONS FOR RELIEF FROM JUDGMENT. - No motions for reconsideration or petitions for relief from judgment of any decision, resolution or order of a Labor Arbiter shall be allowed. However, when one such motion for reconsideration is filed, it shall be treated as an appeal provided that it complies with the requirements for perfecting an appeal. In the case of a petition for relief from

judgment, the Labor Arbiter shall elevate the case to the Commission for disposition.

SECTION 16. REVIVAL AND RE-OPENING OR RE-FILING OF DISMISSED CASE. - A party may file a motion to revive or re-open a case dismissed without prejudice, within ten (10) calendar days from receipt of notice of the order dismissing the same; otherwise, his only remedy shall be to re-file the case in the arbitration branch of origin.

## RULE VI

### APPEALS

SECTION 1. PERIODS OF APPEAL. - Decisions, resolutions or orders of the Labor Arbiter shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt thereof; and in case of decisions, resolutions or orders of the Regional Director of the Department of Labor and Employment pursuant to Article 129 of the Labor Code, within five (5) calendar days from receipt thereof. If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday or holiday, the last day to perfect the appeal shall be the first working day following such Saturday, Sunday or holiday.

No motion or request for extension of the period within which to perfect an appeal shall be allowed.

SECTION 2. GROUNDS. - The appeal may be entertained only on any of the following grounds:

- a) If there is prima facie evidence of abuse of discretion on the part of the Labor Arbiter or Regional Director;
- b) If the decision, resolution or order was secured through fraud or coercion, including graft and corruption;
- c) If made purely on questions of law; and/or
- d) If serious errors in the findings of facts are raised which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

SECTION 3. WHERE FILED. - The appeal shall be filed with the Regional Arbitration Branch or Regional Office where the case was heard and decided.

SECTION 4. REQUISITES FOR PERFECTION OF APPEAL. - a) The appeal shall be: 1) filed within the reglementary period provided in Section 1 of this Rule; 2) verified by the appellant himself in accordance with Section 4, Rule 7 of the Rules of Court, as amended; 3) in the form of a memorandum of appeal which shall state the grounds relied upon and the arguments in support thereof, the relief prayed for, and with a statement of the date the appellant received the appealed decision, resolution or order; 4) in three (3) legibly typewritten or printed copies; and 5) accompanied by i) proof of payment of the required appeal fee; ii) posting of a cash or surety bond as provided in Section 6 of this Rule; iii) a certificate of non-forum shopping; and iv) proof of service upon the other parties.

b) A mere notice of appeal without complying with the other requisites aforesaid shall not stop the running of the period for perfecting an appeal.

c) The appellee may file with the Regional Arbitration Branch or Regional Office where the appeal was filed, his answer or reply to appellant's memorandum of appeal, not later than ten (10) calendar days from receipt thereof. Failure on the part of the appellee who was properly furnished with a copy of the appeal to file his answer or reply within the said period may be construed as a waiver on his part to file the same.

d) Subject to the provisions of Article 218 of the Labor Code, once the appeal is perfected in accordance with these Rules, the Commission shall limit itself to reviewing and deciding only the specific issues that were elevated on appeal.

SECTION 5. APPEAL FEE. - The appellant shall pay an appeal fee of One Hundred Fifty Pesos (P150.00) to the Regional Arbitration Branch or Regional Office of origin, and the official receipt of such payment shall form part of the records of the case.

SECTION 6. BOND. - In case the decision of the Labor Arbiter or the Regional Director involves a monetary award, an appeal by the employer may be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney's fees.

In case of surety bond, the same shall be issued by a reputable bonding company duly accredited by the Commission or the Supreme Court, and shall be accompanied by original or certified true copies of the following:

- a) a joint declaration under oath by the employer, his counsel, and the bonding company, attesting that the bond posted is genuine, and shall be in effect until final disposition of the case.
- b) an indemnity agreement between the employer-appellant and bonding company;
- c) proof of security deposit or collateral securing the bond: provided, that a check shall not be considered as an acceptable security;
- d) a certificate of authority from the Insurance Commission;
- e) certificate of registration from the Securities and Exchange Commission;
- f) certificate of authority to transact surety business from the Office of the President;
- g) certificate of accreditation and authority from the Supreme Court; and
- h) notarized board resolution or secretary's certificate from the bonding company showing its authorized signatories and their specimen signatures.

A cash or surety bond shall be valid and effective from the date of deposit or posting, until the case is finally decided, resolved or terminated, or the award satisfied. This condition shall be deemed incorporated in the terms and conditions of the surety bond, and shall be binding on the appellants and the bonding company.

The appellant shall furnish the appellee with a certified true copy of the said surety bond with all the above-mentioned supporting documents. The appellee shall verify the regularity and genuineness thereof and immediately report any irregularity to the Commission.

Upon verification by the Commission that the bond is irregular or not genuine, the Commission shall cause the immediate dismissal of the appeal, and censure or cite in contempt the responsible parties and their counsels, or subject them to reasonable fine or penalty.

No motion to reduce bond shall be entertained except on meritorious grounds, and only upon the posting of a bond in a reasonable amount in relation to the monetary award.

The mere filing of a motion to reduce bond without complying with the requisites in the preceding paragraphs shall not stop the running of the period to perfect an appeal.

SECTION 7. RECORDS OF CASE ON APPEAL. - The records of a case shall have a corresponding index of its contents which shall include the following: a) the original copy of

the complaint; b) other pleadings and motions; c) minutes of the proceedings, notices, transcripts of stenographic notes, if any; d) decisions, orders, and resolutions as well as proof of service thereof, if available; e) the computation of the award; f) memorandum of appeal and the reply or answer thereto, if any, and proof of service, if available; g) official receipt of the appeal fee; and h) the appeal bond, if any.

The records shall be chronologically arranged and paged prominently.

SECTION 8. TRANSMITTAL OF RECORDS OF CASE ON APPEAL. - Within forty-eight (48) hours after the filing of the appeal, the records of the case shall be transmitted by the Regional Arbitration Branch or office of origin to the Commission.

SECTION 9. PERFECTION OF APPEAL; EFFECT. - Without prejudice to immediate reinstatement pending appeal under Section 6 of Rule XI, once an appeal is filed, the Labor Arbiter loses jurisdiction over the case. All pleadings and motions pertaining to the appealed case shall thereafter be addressed to and filed with the Commission.

SECTION 10. FRIVOLOUS OR DILATORY APPEALS. - No appeal from an interlocutory order shall be entertained. To discourage frivolous or dilatory appeals, including those taken from interlocutory orders, the Commission may censure or cite in contempt the erring parties and their counsels, or subject them to reasonable fine or penalty.

SECTION 11. APPEALS FROM DECISION OF OTHER AGENCIES. - The Rules provided herein governing appeals from the decisions or orders of Labor Arbiters shall apply to appeals to the Commission from decisions or orders of the other offices or agencies appealable to the Commission according to law.

## RULE VII

### PROCEEDINGS BEFORE THE COMMISSION

SECTION 1. JURISDICTION OF THE COMMISSION. - The Commission shall exercise exclusive, original, and appellate jurisdiction in accordance with law.

SECTION 2. COMPOSITION AND INTERNAL FUNCTIONS OF THE COMMISSION *EN BANC* AND ITS DIVISIONS. - a) Composition. - Unless otherwise provided by law, the Commission shall be composed of the Chairman and of fourteen (14) Commissioners.

b) Commission *En Banc*. - The Commission shall sit *en banc* only for purposes of promulgating rules and regulations governing the hearing and disposition of cases before its Divisions and Regional Arbitration Branches, and for the formulation of policies affecting its administration and operations. It may, on temporary or emergency basis, allow cases within the jurisdiction of any Division to be heard by any other Division whose docket allows the additional workload and such transfer will not expose litigants to unnecessary additional expense.

c) Divisions. - Unless otherwise provided by law, the Commission shall exercise its adjudicatory and all other powers, functions and duties through its five (5) Divisions. Each Division shall consist of one member from the public sector who shall act as the Presiding Commissioner and one member each from the workers and employers sectors, respectively.

Of the five (5) Divisions, the First, Second and Third Divisions shall have exclusive territorial jurisdiction over appealed cases coming from Luzon; Fourth Division, appealed cases from Visayas Region; and the Fifth Division, appealed cases from Mindanao including those from the Autonomous Region for Muslim Mindanao.

d) Headquarters. - As provided by law, the Commission and its First, Second and Third Divisions shall have their main office in the National Capital Region, and the Fourth and Fifth

Divisions in the cities of Cebu and Cagayan de Oro, respectively.

SECTION 3. THE CHAIRMAN. - The Chairman shall preside over all sessions of the Commission *en banc*. He is the Presiding Commissioner of the First Division. In case of the effective absence or incapacity of the Chairman, the Presiding Commissioner of the Second Division shall be the Acting Chairman.

The Chairman, aided by the Executive Clerk of the Commission, shall have administrative supervision over the Commission and its Regional Arbitration Branches and all its personnel including the Executive Labor Arbiters and Labor Arbiters.

SECTION 4. COMMISSION *EN BANC* SESSION, QUORUM AND VOTE. - a) Commission *En Banc*. - The Chairman shall call the Commission to an *en banc* session at least twice a year, preferably on the first week of June and the first week of December, to deliberate and decide on any matter before it. However, a majority of all the members of the Commission may call a special *en banc* session to discuss and decide on urgent and vital matters which need immediate action.

b) Quorum. - The presence of a majority of all the members of the Commission shall be necessary to constitute a quorum. The vote or concurrence of the majority of the members constituting a quorum shall be the decision or resolution of the Commission *en banc*.

c) Division. - The presence of at least two (2) Commissioners of a Division shall constitute a quorum. The concurrence of two (2) Commissioners of a Division shall be necessary for the pronouncement of a judgment or resolution.

Whenever the required membership in a Division is not complete and the concurrence of two (2) Commissioners to arrive at a judgment or resolution cannot be obtained, the Chairman shall designate such number of additional Commissioners from the other Divisions as may be necessary from the same sector.

d) Role of Chairman in the Division. - The Chairman of the Commission may convene and preside over the session of any Division to consider any case pending before it and participate in its deliberations, if in his judgment, his presence therein will best serve the interests of labor justice. He shall not however, participate in the voting by the Division, except when he is acting as Presiding Commissioner of the Division in the absence of the regular Presiding Commissioner.

SECTION 5. CONSULTATION. - The conclusions of a Division on any case or matter submitted to it for decision shall be reached in consultation before the case is assigned to a member for the writing of the opinion. It shall be mandatory for the Division to meet for the purpose of the consultation ordained herein.

A certification to this effect signed by the Presiding Commissioner of the Division shall be issued and a copy thereof attached to the record of the case and served upon the parties.

SECTION 6. DISSENTING OPINION. - Should any member of a Division indicate his intention to write a dissenting opinion, he may file the same within the period prescribed for deciding or resolving the appeal; otherwise, such written dissenting opinion shall not be considered part of the records of the case.

SECTION 7. INHIBITION. - No motion to inhibit the entire Division of the Commission shall be entertained. However, any Commissioner may inhibit himself from the consideration and resolution of any case or matter before the Division and shall so state in writing the legal or justifiable grounds therefor. In the event that a member inhibits himself, the case shall be raffled by the Executive Clerk or Deputy Executive Clerk to either of the two (2) remaining Commissioners. In case two (2) Commissioners in a Division inhibit themselves in a case or matter before it, the Chairman shall, as far as practicable, appoint two (2) Commissioners from other Divisions representing the sector of the Commissioners who inhibited themselves.

SECTION 8. ABSTENTION. - In the event of an abstention, and the concurrence of two (2) Commissioners to arrive at a judgment or resolution cannot be obtained, Section 4 (c), second paragraph, of this Rule shall apply.

SECTION 9. CONSOLIDATION OF CASES. - Appealed and injunction cases involving the same parties, issues, or related questions of fact or law shall be consolidated before the Commissioner to whom the case with the lowest case number is assigned. Notice of the consolidation shall be given by the Executive Clerk or Deputy Executive Clerk to the other members of the concerned Divisions.

SECTION 10. TECHNICAL RULES NOT BINDING. - The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and the Commission shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.

In any proceeding before the Commission, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner to exercise complete control of the proceedings at all stages.

SECTION 11. CONCILIATION AND MEDIATION. - In the exercise of its exclusive, original and appellate jurisdiction, the Commission may exert all efforts towards the amicable settlement of a labor dispute.

The settlement of cases on appeal, to be valid and binding between the parties, shall be made before the Commissioner or his authorized representative.

SECTION 12. ROLE OF THE LABOR ARBITER ASSIGNED TO THE COMMISSION. - In the resolution of cases on appeal, and those mentioned in Rules VIII and X, the Commission shall be assisted by a Labor Arbiter who may be directed to study, review, hear and receive evidence, and submit reports thereon.

SECTION 13. FORM OF DECISION, RESOLUTION AND ORDER. - The decision, resolution and order of the Commission shall state clearly and distinctly the findings of facts, issues, and conclusions of law on which it is based, and the relief granted, if any. If the decision, resolution or order involves monetary awards, the same shall contain the specific amount awarded as of the date the decision is rendered.

SECTION 14. FINALITY OF DECISION OF THE COMMISSION AND ENTRY OF JUDGMENT. - a) Finality of the Decisions, Resolutions or Orders of the Commission. - Except as provided in Section 9 of Rule X, the decisions, resolutions or orders of the Commission shall become final and executory after ten (10) calendar days from receipt thereof by the parties.

b) Entry of Judgment. - Upon the expiration of the ten (10) calendar day period provided in paragraph (a) of this Section, the decision, resolution, or order shall be entered in a book of entries of judgment.

The Executive Clerk or Deputy Executive Clerk shall consider the decision, resolution or order as final and executory after sixty (60) calendar days from date of mailing in the absence of return cards, certifications from the post office, or other proof of service to parties.

SECTION 15. MOTIONS FOR RECONSIDERATION. - Motion for reconsideration of any decision, resolution or order of the Commission shall not be entertained except when based on palpable or patent errors; provided that the motion is under oath and filed within ten (10) calendar days from receipt of decision, resolution or order, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party; and provided further, that only one such motion from the same party shall be entertained.

Should a motion for reconsideration be entertained pursuant to this Section, the resolution shall be executory after ten (10) calendar days from receipt thereof.

## RULE VIII

### CERTIFIED CASES

SECTION 1. POLICY. - It is the declared policy of certification of labor disputes for compulsory arbitration to ensure and maintain industrial peace based on social justice and national interest by having a full, complete and immediate settlement or adjudication of all labor disputes between the parties, as well as issues that are relevant to or incidents of the certified issues.

SECTION 2. CERTIFIED LABOR DISPUTES. - Certified labor disputes are cases certified to the Commission for compulsory arbitration under Article 263 (g) of the Labor Code.

SECTION 3. EFFECTS OF CERTIFICATION. - a) Upon certification, the intended or impending strike or lockout is automatically enjoined, notwithstanding the filing of any motion for reconsideration of the certification order nor the non-resolution of any such motion which may have been duly submitted to the Office of the Secretary of Labor and Employment. If a work stoppage has already taken place at the time of the certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout.

b) All cases between the same parties, except where the certification order specifies otherwise the issues submitted for arbitration which are already filed or may be filed, and are relevant to or are proper incidents of the certified case, shall be considered subsumed or absorbed by the certified case, and shall be decided by the appropriate Division of the Commission.

Subject to the second paragraph of Section 4 of Rule IV, the parties to a certified case, under pain of contempt, shall inform their counsels and the Division concerned of all cases pending with the Regional Arbitration Branches and the Voluntary Arbitrators relative or incident to the certified case before it.

c) Whenever a certified labor dispute involves a business entity with several workplaces located in different regions, the Division having territorial jurisdiction over the principal office of the company shall acquire jurisdiction to decide such labor dispute; unless the certification order provides otherwise.

SECTION 4. EFFECTS OF DEFIANCE. - Non-compliance with the certification order of the Secretary of Labor and Employment shall be considered as an illegal act committed in the course of the strike or lockout, and shall authorize the Commission to enforce the same under pain of immediate disciplinary action, including dismissal or loss of employment status or payment by the locking-out employer of backwages, damages and/or other affirmative relief, even criminal prosecution against the liable parties.

The Commission may also seek the assistance of law enforcement agencies to ensure compliance and enforcement of its orders and resolutions.

SECTION 5. PROCEDURE IN CERTIFIED CASES. - a) Unless there is a necessity to conduct a clarificatory hearing, the Commission shall resolve all certified cases within thirty (30) calendar days from receipt by the assigned Commissioner of the complete records, which shall include the position papers of the parties and the order of the Secretary of Labor and Employment denying the motion for reconsideration of the certification order, if such motion has been filed.

b) Where a clarificatory hearing is needed, the Commission shall, within five (5) calendar days from receipt of the records, issue a notice to be served on the parties through the fastest means available, requiring them to appear and submit additional evidence, if any.

c) Notwithstanding the necessity for a clarificatory hearing, all certified cases shall be resolved by the Commission within sixty (60) calendar days from receipt of the complete records.

d) No motion for postponement or extension shall be entertained.

SECTION 6. EXECUTION OF JUDGMENT IN CERTIFIED CASE. – Upon issuance of the entry of judgment, the Commission, *motu proprio* or upon motion by the proper party, may cause the execution of the judgment in the certified case.

## RULE IX

### CONTEMPT

SECTION 1. DIRECT CONTEMPT. - The Chairman or any Commissioner or Labor Arbiter may summarily adjudge guilty of direct contempt any person committing any act of misbehavior in the presence of or so near the Chairman or any Commissioner or Labor Arbiter as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive acts toward others, or refusal to be sworn or to answer as a witness or to subscribe to an affidavit or deposition when lawfully required to do so. If the offense is committed against the Commission or any member thereof, the same shall be punished by a fine not exceeding Five Hundred Pesos (P500.00) or imprisonment not exceeding five (5) days, or both; and, if the offense is committed against any Labor Arbiter, the same shall be punished by a fine not exceeding One Hundred Pesos (P100.00) or imprisonment not exceeding one (1) day, or both.

Any person adjudged guilty of direct contempt by a Labor Arbiter may, within a period of five (5) calendar days from notice of the judgment, appeal the same to the Commission and the execution of said judgment shall be suspended pending resolution of the appeal upon the filing by said person of a bond on condition that he will abide by and perform the judgment should the appeal be decided against him. A judgment of the Commission on direct contempt shall be immediately executory and inappealable.

SECTION 2. INDIRECT CONTEMPT. - The Commission or any Labor Arbiter may, in accordance with Rule 71 of the Rules of Court, cite any person for indirect contempt and impose the appropriate penalty under any of the following grounds:

- a) Misbehavior of any officer or employee in the performance of his official duties or in his official transaction;
- b) Disobedience of, or resistance to, a lawful writ, order or decision;
- c) Any abuse of, or any unlawful interference with the processes or proceedings not constituting direct contempt;
- d) Any improper conduct tending, directly or indirectly, to impede, obstruct or degrade the administration of justice;
- e) Assuming to be an attorney or a representative of party without authority;
- f) Failure to obey a subpoena duly served; or
- g) Other grounds analogous to the foregoing.

The same procedure provided in the second paragraph of Section 1 of this Rule shall govern any person adjudged guilty of indirect contempt.

## RULE X

### INJUNCTION

SECTION 1. INJUNCTION IN ORDINARY LABOR DISPUTES. - A preliminary injunction or restraining order may be granted by the Commission through its Divisions pursuant to the provisions of paragraph (e) of Article 218 of the Labor Code, as amended, when it is established on the basis of the sworn allegations in the petition that the acts complained of involving or arising from any labor dispute before the Commission, which, if not restrained or performed forthwith, may cause grave or irreparable damage to any party or render ineffectual any decision in favor of such party.

A certification of non-forum shopping shall accompany the petition for injunction.

The writ of preliminary injunction or temporary restraining order shall become effective only upon posting of the required cash bond in the amount to be determined by the Commission to answer for any damage that may be suffered by the party enjoined, if it is finally determined that the petitioner is not entitled thereto.

SECTION 2. INJUNCTION IN STRIKES OR LOCKOUTS. - A preliminary or permanent injunction may be granted by the Commission only after hearing the testimony of witnesses and with opportunity for cross-examination in support of the allegations of the complaint or petition made under oath, and testimony by way of opposition thereto, if offered, and only after a finding of fact by the Commission:

a) That prohibited or unlawful acts have been threatened and will be committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat, prohibited or unlawful act, except against the person or persons, association or organization making the threat or committing the prohibited or unlawful act or actually authorizing or ratifying the same after actual knowledge thereof.

b) That substantial and irreparable injury to petitioner's property will follow;

c) That as to each item of relief to be granted, greater injury will be inflicted upon the petitioner by the denial of relief than will be inflicted upon respondents by the granting of relief;

d) That petitioner has no adequate remedy at law; and

e) That the public officers charged with the duty to protect petitioner's property are unable or unwilling to furnish adequate protection.

SECTION 3. HEARING; NOTICE THEREOF. - Hearings shall be held after due and personal notice thereof has been served, in such manner as the Commission shall direct, to all known persons against whom relief is sought, and also to the Chief Executive and other public officials of the province or city within which the unlawful acts have been threatened or committed charged with the duty to protect petitioner's property.

SECTION 4. RECEPTION OF EVIDENCE; DELEGATION. - The reception of evidence for the application of a writ of injunction may be delegated by the Commission to any of its Labor Arbiters who shall conduct such hearings in such places as he may determine to be accessible to the parties and their witnesses, and shall thereafter submit his report and recommendation to the Commission within fifteen (15) days from such delegation.

SECTION 5. OCULAR INSPECTION. - The Chairman, any Commissioner, Labor Arbiter or their duly authorized representatives, may, at any time during working hours, conduct an ocular inspection on any establishment, building, ship or vessel, place or premises, including any work, material, implement, machinery, appliance or any object therein, and ask any employee, laborer, or any person, as the case may be, for any information or data concerning any matter or question relative to the object of the petition.

The ocular inspection reports shall be submitted to the appropriate Division within twenty-four (24) hours from the conduct thereof.

SECTION 6. TEMPORARY RESTRAINING ORDER; REQUISITES. - If the petitioner shall also allege that, unless a temporary restraining order shall be issued without notice, a substantial and irreparable injury to petitioner's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, or by affidavits of the petitioner's witnesses, sufficient, if sustained, to justify the Commission in the issuance thereof.

SECTION 7. CASH BOND. - No temporary restraining order or writ of preliminary injunction shall be issued except on the condition that petitioner shall first file an undertaking to answer for the damages and post a cash bond in the amount of Fifty Thousand Pesos (P50,000.00), or such higher amount as may be determined by the Commission, to recompense those enjoined for any loss, expense or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs, together with a reasonable attorney's fee, and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the Commission.

SECTION 8. EFFECTIVITY OF TEMPORARY RESTRAINING ORDER. - A temporary restraining order shall be effective for no longer than twenty (20) days reckoned from the posting of the cash bond required under the preceding Section. During the said period, the parties shall be required to present evidence to substantiate their respective positions in the main petition.

SECTION 9. EFFECTS OF DEFIANCE. - The order or resolution enjoining the performance of illegal acts shall be immediately executory in accordance with the terms thereof. In case of non-compliance, the Commission shall impose such sanctions, and shall issue such orders, as may be necessary to implement the said order or resolution, including the enlistment of law enforcement agencies having jurisdiction over the area for the purpose of enforcing the same.

SECTION 10. ORDINARY REMEDY IN LAW OR IN EQUITY. - Nothing in this Rule shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity.

## RULE XI

### EXECUTION PROCEEDINGS

SECTION 1. EXECUTION UPON FINALITY OF DECISION OR ORDER. - a) A writ of execution may be issued *motu proprio* or on motion, upon a decision or order that finally disposes of the action or proceedings after the parties and their counsels or authorized representatives are furnished with copies of the decision or order in accordance with these Rules, but only after the expiration of the period to appeal if no appeal has been filed, as shown by the certificate of finality. If an appeal has been filed, a writ of execution may be issued when there is an entry of judgment as provided for in Section 14 of Rule VII.

b) No motion for execution shall be entertained nor a writ of execution be issued unless the Labor Arbiter or the Commission is in possession of the records of the case which shall

include an entry of judgment if the case was appealed; except that, as provided for in Section 14 of Rule V and Section 6 of this Rule, and in those cases where partial execution is allowed by law, the Labor Arbiter shall retain duplicate original copies of the decision to be implemented and proof of service thereof for the purpose of immediate enforcement.

SECTION 2. PRE-EXECUTION CONFERENCE. - Within two (2) working days from receipt of a motion for the issuance of a writ of execution, and subject to Section 1, paragraph (b) of this Rule, the Labor Arbiter shall schedule a pre-execution conference or hearing to thresh out matters relevant to execution, including the computation of the award.

SECTION 3. FORM AND CONTENTS OF A WRIT OF EXECUTION. - The writ of execution must be issued in the name of the Republic of the Philippines signed by the Commission or Labor Arbiter requiring the Sheriff to execute the decision, order, or award of the Commission or Labor Arbiter, and must contain the dispositive portion thereof, the amount, if any, to be demanded, and all lawful fees to be collected from the losing party or any other person required by law to obey the same.

SECTION 4. COMPUTATION DURING EXECUTION. - Where further computation of the award in the decision, resolution or order is necessary during the course of the execution proceedings, no writ of execution shall be issued until after the computation has been approved by the Labor Arbiter in an order issued after the parties have been duly notified and heard on the matter.

SECTION 5. EXECUTION OF MONETARY JUDGMENT. - a) Immediate payment on demand. - The Sheriff shall enforce a monetary judgment by demanding the immediate payment of the full amount stated in the writ of execution and all lawful fees from the losing party or any other person required by law to obey the same.

b) In the event of failure or refusal of the losing party to pay the judgment award, the Sheriff shall immediately proceed against the cash deposit or surety bond posted by the losing party, if any;

c) If the bonding company refuses to comply with the writ of execution, then its president and officers or authorized representatives shall be cited for contempt, and the bonding company shall be barred from transacting business with the Commission;

d) Should the cash deposit or surety bond be insufficient, or in case the surety bond cannot be proceeded against for any reason, the Sheriff shall, within five (5) days from demand, execute the monetary judgment by levying on the property, personal and real, of the losing party not exempt from execution, sufficient to cover the judgment award, which may be disposed of for value at a public auction to the highest bidder.

e) Proceeds of execution shall be deposited with the Cashier of the concerned Division or Regional Arbitration Branch, or with an authorized depository bank. Where payment is made in the form of a check, the same shall be payable to the Commission.

SECTION 6. EXECUTION OF REINSTATEMENT PENDING APPEAL. - In case the decision includes an order of reinstatement, and the employer disobeys the directive under the second paragraph of Section 14 of Rule V or refuses to reinstate the dismissed employee, the Labor Arbiter shall immediately issue writ of execution, even pending appeal, directing the employer to immediately reinstate the dismissed employee either physically or in the payroll, and to pay the accrued salaries as a consequence of such reinstatement at the rate specified in the decision.

The Sheriff shall serve the writ of execution upon the employer or any other person required by law to obey the same. If he disobeys the writ, such employer or person may be cited for contempt in accordance with Rule IX.

SECTION 7. ENFORCEMENT OF WRIT OF EXECUTION. - In executing a decision, resolution or order, the Sheriff, or other authorized officer acting as Sheriff of the Commission, shall be guided strictly by these Rules, and by the Manual on Execution of Judgment, which shall form part of these Rules. In the absence of applicable rules, the Rules of Court, as amended, shall be applied in a suppletory manner.

SECTION 8. EXECUTION BY MOTION OR BY INDEPENDENT ACTION. - A decision or order may be executed on motion within five (5) years from the date it becomes final and executory. After the lapse of such period, the judgment shall become dormant, and may only be enforced by an independent action within a period of ten (10) years from date of its finality.

SECTION 9. EFFECT OF PERFECTION OF APPEAL ON EXECUTION. - The perfection of an appeal shall stay the execution of the decision of the Labor Arbiter on appeal, except execution for reinstatement pending appeal.

SECTION 10. EFFECT OF PETITION FOR *CERTIORARI* ON EXECUTION. - A petition for *certiorari* with the Court of Appeals or the Supreme Court shall not stay the execution of the assailed decision unless a restraining order is issued by said courts.

SECTION 11. RESOLUTION OF MOTION TO QUASH. - The mere filing of a motion to quash shall not stay execution proceedings. A motion to quash shall be resolved by the Labor Arbiter within ten (10) working days from submission of said motion for resolution.

SECTION 12. THIRD PARTY CLAIM. - A third party claim shall be filed within five (5) days from the last day of posting or publication of the notice of execution sale; otherwise the claim shall be forever barred. The third party claimant shall execute an affidavit stating his title to the property or right to possession thereof with supporting evidence, and shall file the same with the Sheriff and the Commission or Labor Arbiter who issued the writ of execution. Upon receipt of the third party claim, all proceedings, with respect to the execution of the property subject of such claim, shall automatically be suspended. The Labor Arbiter who issued the writ may require the third party claimant to adduce additional evidence in support of his third party claim and to post a cash or surety bond equivalent to the amount of his claim, as provided for in Section 6 of Rule VI, without prejudice to the posting by the prevailing party of a *supersedeas* bond in an amount equivalent to that posted by the third party claimant. The Labor Arbiter shall resolve the propriety of such third party claim within ten (10) working days from submission of said claim for resolution.

SECTION 13. RETURN OF WRIT OF EXECUTION. - The writ of execution shall be returned to the Commission or Labor Arbiter who issued it at anytime, but not within ten (10) days nor beyond one hundred eighty (180) days, after receipt thereof by the Sheriff, who shall set forth in writing the whole proceedings, and file it with the Commission or Labor Arbiter to form part of the records of the case.

SECTION 14. SHERIFF'S REPORT. - The Sheriff enforcing the writ of execution shall submit not later than thirty (30) days from receipt of such writ, and every thirty (30) days thereafter, a report updating the Commission or Labor Arbiter who issued the writ of execution on the status of the enforcement thereof. A copy of the report shall be furnished the Chairman and the Executive Labor Arbiter.

SECTION 15. DESIGNATION OF SPECIAL SHERIFFS AND IMPOSITION OF FINES. - The Chairman of the Commission may designate special Sheriffs and take any measure, under existing laws, to ensure compliance with the decisions, resolutions or orders of the Commission and those of Labor Arbiters, including the imposition of administrative fine which shall not be less than Five Hundred Pesos (P500.00) nor more than Ten Thousand Pesos (P10,000.00).

Failure on the part of the Sheriff to submit the return or report required under Section 13 and 14 of this Rule within the stated period shall subject him to the above administrative fine, or suspension for fifteen (15) days without pay, or both.

## RULE XII

### COMMISSION SEAL AND RECORDS, AND POWERS AND DUTIES OF COMMISSION OFFICIALS

SECTION 1. SEAL OF THE COMMISSION. - The seal of the National Labor Relations Commission shall be of standard size, circular, with the inscription, running from left to right on the upper outside edge, the words "NATIONAL LABOR RELATIONS COMMISSION", and the lower outside edge, the words "REPUBLIC OF THE PHILIPPINES", with a design at the center containing the coat of arms of the Department of Labor and Employment.

SECTION 2. THE EXECUTIVE CLERK. - The Executive Clerk shall assist the Commission when sitting *en banc* and when acting through the First Division, and shall perform such similar or equivalent functions and duties as are discharged by the Clerk of Court of the Court of Appeals.

SECTION 3. DEPUTY EXECUTIVE CLERKS. - The Deputy Executive Clerks for the Second, Third, Fourth and Fifth Divisions shall assist the Commission when acting through its Division, and shall perform similar functions and duties as discharged by the Deputy Clerks of Court of the Court of Appeals, and as enumerated herein as functions of the Executive Clerk relative to their respective Divisions.

SECTION 4. DUTIES AND FUNCTIONS OF THE EXECUTIVE CLERK AND DEPUTY EXECUTIVE CLERKS. - a) Custody of Seal and Books. - He shall keep in his care and custody the Seal of the Commission, together with all the books necessary for the recording of the proceedings of the Commission, including the records, files and exhibits;

b) Filing of Pleadings. - He shall receive and file all cases and pleadings and documents indicating thereon the date and time filed. All pleadings shall be filed in three (3) legibly typewritten copies in legal size;

c) Raffle and Assignment of Cases. - He shall assign appealed cases for study or report strictly by raffle or as directed by the Chairman. In this connection, the raffle of cases for study or report must be attended by the duly designated representative of the Members of the appropriate Division;

d) Service of Processes, Orders and Decisions. - He shall serve parties and counsel processes, notices of hearings, copies of decisions, resolutions or orders issued by the Commission by mail or by personal service and immediately attach the returns thereof to the records;

e) Commission Calendar and Minutes Book. - He shall prepare the Commission or Division calendars of sessions, attend such sessions personally and immediately prepare the minutes thereof. For this purpose, he shall keep a minutes book;

f) General Docket. - The Executive Clerk shall keep a general docket for the Commission, each page of which shall be numbered and prepared for receiving all the entries in a single page, and shall enter therein all original and appealed cases before it, numbered consecutively in the order in which they were received and, under the heading of each case, the date and hour of each pleading filed, of each order, decision or resolution entered, and of each other step or action taken in the case; so that, by reference to any single page, the history of the case may be known;

g) Promulgation and Promulgation Book. - He shall promulgate decisions and final resolutions on the same date the same is filed with his office and indicate the date and time of promulgation and attest the same by his signature on the first page thereof. He shall

immediately furnish the Chairman with a copy of such decision, resolution, or order with a summary of the nature thereof and the issue involved therein. He shall keep a promulgation book which indicates the date and time of promulgation, the case number, title of the case, the *ponente*, the nature of the decision or final resolution and the action taken by the Commission by quoting the dispositive portion thereof. Notices of said decisions, resolutions or orders shall be sent in sealed envelopes to parties and their counsel within forty-eight (48) hours from promulgation;

h) Entry of Judgment. - He shall keep a book of entries of judgment, decisions, resolutions and orders containing in chronological order the entries of all final decisions, resolutions and orders of the Commission;

i) Disposition and Remand of Records. - Upon entry of judgment, he shall immediately remand the records of the case to the Regional Arbitration Branch of origin, Regional Director or his duly authorized officer, as the case may be. The Records Unit shall immediately post said records without delay within two (2) working days;

j) Monthly Accomplishment Reports. - He shall submit a monthly accomplishment report of the Commission or Division not later than the 7th day of the following month;

k) Other Functions. - He shall perform other functions as directed by the Chairman or the Commission *en banc*.

SECTION 5. BOARD SECRETARIES. - The Board Secretaries of the Commission shall assist the Executive Clerk or Deputy Executive Clerks in the performance of their duties and functions relative to the Commission or their respective Divisions.

SECTION 6. ISSUANCE OF CERTIFIED COPIES. - Unless otherwise restricted by Section 8 hereof, the Executive Clerk, Deputy Executive Clerks, and the authorized officers of the Regional Arbitration Branches shall prepare, for any person asking for the same, a certified copy, under the Seal of the Commission, of any paper, record, decision, resolution, order or entry by and in his office, proper to be certified, after payment of the standard fees to the Commission duly receipted for; Provided, that a pauper litigant, as defined by law, shall be exempted from paying any fee for certified copies of any document, including transcripts of stenographic notes.

SECTION 7. POWER TO ADMINISTER OATH. - The Chairman, Members of the Commission, the Executive Clerk, the Deputy Executive Clerks, the Executive Labor Arbiters, the Labor Arbiters, and other persons designated or commissioned by the Chairman of the Commission, shall have the power to administer oath on all matters or proceedings related to the performance of their duties.

SECTION 8. ACCESS TO COMMISSION RECORDS. - All official records of the Commission shall be open to the public during regular office hours, except those kept by it in the nature of confidential reports, records or communications which cannot be divulged without violating private rights or prejudicing the public interest. Minutes of hearings or sessions may not be divulged until after promulgation of the decision or resolution.

## RULE XIII

### EFFECTIVITY

SECTION 1. EFFECTIVITY. - These Rules shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation.