



DEPARTMENT ORDER NO. 215
Series of 2020

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“RULE AMENDING SECTION 12 OF RULE I, RULES IMPLEMENTING BOOK VI OF THE LABOR CODE ON SUSPENSION OF EMPLOYMENT RELATIONSHIP”

Pursuant to Article 5 of the Labor Code of the Philippines, as amended, authorizing the Department of Labor and Employment to promulgate the necessary implementing rules and regulations of the Labor Code and in order to preserve employment, these Rules are hereby issued amending Section 12 of Rule I, Rules Implementing Book VI of the Labor Code:

I. AMENDED RULE ON SUSPENSION OF EMPLOYMENT RELATIONSHIP

Section 12 (Suspension of Relationship) of the Omnibus Rules Implementing the Labor Code is hereby amended, as follows:

“SECTION 12. Suspension of relationship. — The employer-employee relationship shall be deemed suspended in case of suspension of operation of the business or undertaking of the employer for a period not exceeding six (6) months, unless the suspension is for the purpose of defeating the rights of the employees under the Code, and in case of mandatory fulfillment by the employee of a military or civic duty. The payment of wages of the employee as well as the grant of other benefits and privileges while he is **ON SUSPENDED EMPLOYMENT OR** on a military or civic duty shall be subject to **EXISTING** laws and decrees and to the applicable individual or collective bargaining agreement and voluntary employer practice or policy.

IN CASE OF DECLARATION OF WAR, PANDEMIC AND SIMILAR NATIONAL EMERGENCIES, THE EMPLOYER AND THE EMPLOYEES, THROUGH THE UNION, IF ANY, OR WITH THE ASSISTANCE OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, SHALL MEET IN GOOD FAITH FOR THE PURPOSE OF EXTENDING THE SUSPENSION OF EMPLOYMENT FOR A PERIOD NOT EXCEEDING SIX (6) MONTHS: PROVIDED, THAT THE EMPLOYER SHALL REPORT TO THE DEPARTMENT OF LABOR AND EMPLOYMENT, THROUGH THE REGIONAL OFFICES, THE EXTENSION OF SUSPENSION OF EMPLOYMENT TEN (10) DAYS PRIOR TO THE EFFECTIVITY THEREOF SUBJECT TO INSPECTION; PROVIDED, HOWEVER, THAT THE EMPLOYEES SHALL NOT LOSE EMPLOYMENT IF THEY FIND

ALTERNATIVE EMPLOYMENT DURING THE EXTENDED SUSPENSION OF EMPLOYMENT EXCEPT IN CASES OF WRITTEN, UNEQUIVOCAL AND VOLUNTARY RESIGNATION; PROVIDED FURTHER, THAT SHOULD RETRENCHMENT BE NECESSARY BEFORE OR AFTER THE EXPIRATION OF THE EXTENSION OF SUSPENSION OF EMPLOYMENT, THE AFFECTED EMPLOYEE SHALL BE ENTITLED TO SEPARATION PAY AS PRESCRIBED BY THE LABOR CODE, COMPANY POLICIES OR COLLECTIVE BARGAINING AGREEMENT, WHICHEVER IS HIGHER; PROVIDED, FINALLY, THAT THE RETRENCHED EMPLOYEES SHALL HAVE PRIORITY IN THE RE-HIRING IF THEY INDICATE THEIR DESIRE TO RESUME THEIR WORK NOT LATER THAN ONE (1) MONTH FROM THE RESUMPTION OF OPERATIONS.

THIS NOTWITHSTANDING, BY MUTUAL AGREEMENT OF THE EMPLOYER AND THE EMPLOYEES, THROUGH THE UNION, IF ANY, OR WITH THE ASSISTANCE OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, EMPLOYEES MAY BE RECALLED TO WORK OR RETRENCHED SUBJECT TO THE REQUIREMENT OF NOTICE AND SEPARATION PAY, ANYTIME BEFORE THE EXPIRATION OF THE EXTENSION OF SUSPENSION OF EMPLOYMENT.

THE EXTENSION OF SUSPENSION OF EMPLOYMENT SHALL NOT AFFECT THE RIGHT OF THE EMPLOYEES TO SEPARATION PAY. THE FIRST SIX (6) MONTHS OF SUSPENSION OF EMPLOYMENT SHALL BE INCLUDED IN THE COMPUTATION OF THE EMPLOYEES' SEPARATION PAY."

II. NON-DIMINUTION OF BENEFIT

Nothing in this issuance shall be construed to authorize or justify the diminution or reduction of benefits, supplements or payments as provided in existing laws, individual or collective agreement, or employment practices or policies.

III. COMPLIANCE AND ENFORCEMENT

The DOLE Regional Offices shall inspect and monitor the proper implementation of this issuance.

IV. REPEALING CLAUSE

All policies, rules, orders and other issuances inconsistent with the provisions of this issuance are hereby repealed or modified accordingly.


V. TRANSITORY PROVISION

This issuance shall not apply to cases already filed at the time of the effectivity thereof.

VI. EFFECTIVITY

This issuance shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

23 OCTOBER 2020.


SILVESTRE H. BELLO III
Secretary

Dept. of Labor & Employment
Office of the Secretary



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