



Republic of the Philippines  
**DEPARTMENT OF LABOR AND EMPLOYMENT**  
Intramuros, Manila



**DEPARTMENT ORDER NO. 169**  
Series of 2017

**IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10789  
OTHERWISE KNOWN AS THE "RACEHORSE JOCKEYS RETIREMENT ACT"**

Pursuant to Section 4 of Republic Act No. 10789 or the "Racehorse Jockeys Retirement Act", the following implementing rules and regulations are hereby issued:

**RULE II-B**

**Section 1. Coverage.** – This Rule shall apply to all professional racehorse jockeys who are duly licensed by the Philippine Racing Commission (PHILRACOM) pursuant to Republic Act No. 10789.

**Section 2. Retirement Age and Other Requirements.** – **2.1 Compulsory Retirement.** – In the absence of a retirement plan or other applicable agreement providing for retirement benefits of racehorse jockeys, any such employee shall be compulsorily retired upon reaching the age of fifty-five (55) years, provided that he/she has served for at least five (5) years as racehorse jockey and has paid additional premiums to the Social Security System (SSS).

**2.2 Service Requirement.** – The minimum length of service of at least five (5) years required for entitlement to retirement pay shall include authorized absences and vacations, holidays, and mandatory fulfillment of a military or civic duty.

**Section 3. Retirement under CBA/contract.** – **3.1** Any racehorse jockey may retire or be retired by his employer upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract, subject to the provisions of Section 4 hereof on the payment of retirement benefits.

**3.2** In case of retirement under this Section, the racehorse jockey shall be entitled to receive such retirement benefits as he/she may have earned under existing laws and any collective bargaining agreement and other agreements; provided, however, that the said employee's retirement benefits under any collective bargaining and other agreement shall not be less than those provided under this Rule; and provided further that if such benefits are less, the employer shall pay the difference between the amount due the employer under this Rule and that provided under the collective bargaining agreement or other applicable employment contract.

**3.3** Where both the employer and the employee contribute to a retirement fund in accordance with a collective bargaining agreement or other applicable employment contract, the employer's total contribution thereto shall not be less than the total retirement benefits to which the employee would have been entitled had there been no such retirement fund. In case

the employer's contribution is less than the retirement benefits provided under this Rule, the employer shall pay the deficiency.

**Section 4. Retirement Benefits.** – 4.1 In the absence of an applicable employment contract, an racehorse jockey who retires pursuant to the law shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

4.2 Components of One-Half (1/2) Month Salary. – For the purpose of determining the minimum retirement pay due an employee under this Rule, the term “one-half month salary” shall include all the following:

- (a) Fifteen (15) days salary of the employee based on his/her latest salary rate. As used herein, the term “salary” includes all remuneration paid by employer to his employees for services rendered during the normal working days and hours, whether such payments are fixed or ascertained on a time, task piece, or commission basis, or other method of calculating the same, and includes the fair and reasonable value, as determined by the Secretary of Labor and Employment, of food, lodging or other facilities customarily furnished by the employer to his employees. The term does not include cost of living allowances, profit-sharing payment and other monetary benefits which are not considered a part of or integrated into the regular salary of the employees;
- (b) The cash equivalent of five (5) days of service incentive leave;
- (c) One-twelfth of the 13<sup>th</sup> month pay due to the employee; and
- (d) All other benefits that the employer and employee may agree upon that should be included in the computation of the employee's retirement pay.

4.3 One-half Month Salary of Employees Who are Paid by Results. – For covered workers who are paid by results and do not have a fixed monthly rate, the basis of determination of the salary for fifteen days shall be their average daily salary (ADS), subject to the provisions of Rule VII-A, Book III of the Rules Implementing the Labor Code on the payment of wages of workers who are paid by results. The ADS is the average salary for the last twelve (12) month reckoned from the date of their retirement, divided by the number of actual working days in that particular period.

4.4 Entitlement to Retirement Benefits under the SSS. – A racehorse jockey who retires pursuant to the law shall be entitled to the retirement benefits under Section 12 in relation to Section 12-A and Section 12-B of the SS law, provided that he is an active SSS member and has complied with the following:

- (a) Has been employed and certified as racehorse jockey by his employer, who must be duly licensed by the PHILRACOM.
- (b) Has been working as racehorse jockey for at least five years prior to semester of retirement, either five years continuous and/or accumulated immediately prior to or earlier than the semester of retirement, but whose actual date of retirement is not earlier than May 24, 2016.

All benefit payments made by the SSS are exempt from all kinds of taxes, fees or charges, and not liable to attachments, garnishments, levy or seizure by or under any legal or



equitable process whatsoever. Either before or after receipt by the person or persons entitled thereto as provided for under Section 16 of the SS Law.

**Section 5. Exemption from Tax.** – The retirement pay provided herein shall be exempt from income tax subject to the conditions set under the National Internal Revenue Code of 1997, as amended, and other relevant issuances of the Bureau of Internal Revenue.

**Section 6. Penal Provision.** – It shall be unlawful for any person or entity to circumvent or render ineffective the provisions provided under Article 303 of the Labor Code, as renumbered.

**Section 7. Relation to Agreement and Regulations.** – Nothing in this Rule shall justify an employer from withdrawing or reducing any benefits, supplements or payments as provided in existing laws, individual or collective agreement, or employment practices or policies.

All rule and regulations, policy issuances or orders contrary to or inconsistent with this Rule are hereby repealed or modified accordingly.

**Section 8. Effectivity.** – This Rule took effect on May 24, 2016 when RA 10789 went into force.

Manila, Philippines, February 02, 2017.

  
SILVESTRE H. BELLO IN

Secretary

Dept. of Labor & Employment  
Office of the Secretary



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