GUIDELINES GOVERNING EXEMPTION OF ESTABLISHMENTS FROM SETTING UP WORKPLACE LACTATION STATIONS

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Adopted: 20 May 2015
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Pursuant to the provisions under Section 8, Rule III of the Implementing Rules and Regulations of RA 10028 (An Act Expanding the Promotion of Breastfeeding, Amending for the Purpose Republic Act No. 7600, Otherwise known as “An Act Providing incentives to All Government and Private Health institutions with Rooming-in and Breastfeeding Practices and for Other Purposes” or the Expanded Breastfeeding Act of 2009), which provides that an application for exemption from setting up lactation station by a private establishment may be granted for a renewable period of two years by the DOLE Regional Director upon determination that the establishment of the facility is not feasible or necessary, the following guidelines is hereby issued for the guidance of and compliance by all concerned.

Section 1. Definition of Terms. As used in Republic Act 10028 and for purposes of this Order, the following terms are hereby defined:

(a)

“Expressing milk” - the act of extracting human milk from the breast by hand or by pump into a container.

(b)

“Lactation stations” - private, clean, sanitary, and well-ventilated rooms or areas in the workplace or public places where nursing mothers can wash up, breastfeed or express their milk comfortably and store this afterward. Also known as breastfeeding room/area/station.

(c)

“Lactation periods” - paid or compensable break intervals in addition to the regular time-off for meals to breastfeed or express milk. These break intervals shall not be less than 40 minutes for every 8-hour working period.

(d)

“Nursing employee” - otherwise known as lactating employee; is any female worker, regardless of employment status, who is lactating or breastfeeding her infant and/or young child.

(e)

“Establishment” - refers to any private entity, whether operating for profit or not, employing individuals where work or any of its incidents are being undertaken, located in one office or workplace address.

(f)

“Act” - refers to Republic Act (RA) 10028

(g)

“IRR” - refers to the Implementing Rules and Regulations of RA 10028

(h)

“DOLE” - Department of Labor and Employment

(i)

“DOH” - Department of Health

Section 2. Exemptible establishments. An establishment may be covered by the exemption, provided that any of the following conditions are met at the time of application, and provided further that no female clients visit/transact with the establishment:

(a)

establishments with no nursing or lactating employee;

(b)

establishments with no pregnant employee.

Section 3. Where to file application for exemption. The application shall be filed at the nearest Field Office (PO) of the DOLE having jurisdiction over said establishment.

Section 4. Requirements for the filing of exemption. The following documents shall be filed either thru personal service, courier, registered mail or email:

(a)

duly accomplished application form (can be downloaded at www.bwsc.dole.gov.ph) signed by the owner/president/manager or their authorized representative;

(b)

copy of certificate of previous exemption (if applying for renewal of exemption).

Two copies each of the above documents shall be submitted if filed through personal service, courier or registered mail.

Section 5. Action on Application. The DOLE Regional Office (RO) shall, within fifteen (15) working days, from the date the application has been received by the DOLE RO, act on all applications. The DOLE FO shall review/verify the information stated in the application form. If necessary, it shall conduct a validation or ocular visit, interview the applicant establishment and worker’s representative prior to the approval of the application.

Section 6. Issuance of Certificate of Exemption. Upon determination that the accomplished application form is in order and that it is eligible for exemption, the DOLE Regional Office shall issue a certificate of exemption to the establishment.

Section 7. Display and Validity of Certificate of Exemption. The original certificate of exemption issued by the DOLE or a copy thereof shall be displayed conspicuously at all times in the work/office premises of the establishment. This certificate of exemption shall be renewable every two years. The certificate of exemption shall be revoked at any time during the two-year period of exemption, if the conditions cited in Section 2 of this Order are no longer present.

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Section 8. Action on Disapproved Application. Where the establishment's application is disapproved, the DOLE FO shall:

(a)

indicate in the application form the reason(s) and recommendations and immediately return to the applicant establishment the application form filed;

(b)

facilitate establishment's compliance and thereby advise the establishment to:

i.

set up a lactation station in accordance with the Prototypes/Modelsas provided under Part I of Annex A of this Order; or

ii.

adopt the Lactation Station Equivalency Guideas provided under Part II of Annex A of this Order in case it is not capable or it is not feasible to set up any of the prototype models; and

iii.

develop, in consultation with the workers, a workplace policy or clear set of guidelines that protects, promotes and supports breastfeeding program.

(c)

inform/advise the establishment of the administrative sanctions/penalties under RA 10028, which the DOH may impose upon private establishments for unjustifiable refusal or failure to establish lactation stations and/or observe mandated lactation periods for its nursing employees.

Section 9. Reportorial and record-keeping requirements. The DOLE, being one among the government agencies identified as responsible in monitoring the implementation of RA 10028, as provided under Sections 29 and 30 of Rule VIII of the IRR, shall, through its regional offices keep a record of establishments which have been issued a Certificate of Exemption, monitor and ensure establishments' compliance with this Guidelines and submit periodic reports to the Bureau of Workers with Special Concerns for the purpose cited under the next section.

Section 10. Review of this Guidelines. This Order shall be reviewed after two to three years following its effectivity.

Section 11. Effectivity. - This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

(SGD) ROSALINDA DIMAPILIS-BALDOZ
Secretary

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