

AMENDMENTS TO RULES VI, VII, VIII AND X IMPLEMENTING REPUBLIC ACT NO. 6982

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Pursuant to the authority vested in the Secretary of Labor and Employment under Section 11 of Republic Act No. 6982, and upon consultation with the Sugar Tripartite Council (STC), Rules VI, VII, VIII and X Implementing Republic Act No. 6982 are hereby amended to read as follows:

Rule VI

Management of the Lien

SECTION 1. Lien - From a lien of Five Pesos (P5.00) per picul in crop year 1991-1992 and with provisions of automatic additional lien over a period of ten years thereafter, a lien of Ten Pesos (P10.00) per picul or its equivalent in 50 kilo bag of sugar shall be imposed on the gross production of sugar to primarily augment the income of sugar workers and to finance social and economic programs to improve their livelihood and well-being.

The amount herein imposed shall be borne by the sugar planters and millers in proportion to their corresponding milling share and said amount shall constitute a lien on their sugar quedans and/or warehouse receipts, except for Mills that are required to implement RA 809. These mills are Biscom, Sonedco, and San Carlos.

The lien shall be allocated and utilized as follows:

- a. Eighty percent (80%) of the lien, including any and all incomes or interests derived therefrom, as Cash Bonus Fund, for distribution to sugar workers;
- b. Twenty percent (20%) of the lien, including any and all incomes or interests derived there from, as Socio-Economic Program-Related Funds, distributed as follows:
 1. Five percent (5%) as Sugar Workers Death Benefit Fund;
 2. Nine percent (9%) including penalties for nonremittance of the lien, as Socio-Economic Project Fund;
 3. Three percent (3%) as Maternity Benefit Fund; and
 4. Three percent (3%) as Administrative Expense Fund of the STC, District Tripartite Councils (DTCs), and the Bureau of Rural Workers (BRW) in implementing this Act.

SECTION 2. Collection and Remittance of the Lien -

- a. Collection by the Mill - All sugar mills shall collect the lien upon the withdrawal or release of the sugar from the mill warehouse but in no case beyond one hundred eighty (180) days from the date of the issuance of the corresponding sugar quedans or warehouse receipts: Provided, That, after the said one hundred eighty (180) days, the miller shall advance whatever amount is necessary to pay such lien to all concerned within five (5) working days counted from the end of the one hundred eighty (180) days period and charge the holder of said sugar quedans or warehouse receipts the amount so paid and such reasonable rate of interest as may be prevailing in the banking community.

Holders of quedans may advance the lien prior to the withdrawal of sugar from the mill warehouse; Provided, the amount paid shall tally with the quedans issued.

- b. Deposit of lien with Authorized Government Depository Bank -

1. 80% Lien or Cash Bonus Fund (CBF)

Within one (1) month from date of collection, the mill shall remit the 80% or Cash Bonus Fund portion of the lien by depositing the CBF in a separate interest-bearing account with an authorized government depository bank under the name of:

A. Share of Mill Workers and Plantation Workers of Unaffiliated Planters

"CBF FOR THE MILL WORKERS AND PLANTATION WORKERS-UNAFFILIATED IN TRUST TO MILL "X"

B. Share of Plantation Workers of Affiliated Planters

"CBF FOR THE PLANTATION WORKERS IN TRUST TO PLANTERS ASSOCIATION/COOPERATIVE "X"

The mill workers or plantation workers of unaffiliated planters or the plantation workers of affiliated planters are henceforth referred to as "workers-beneficiaries".

In exceptional cases, where there are no accessible authorized government depository banks within the mill district, the Mill or Planters Association/Cooperative shall open and maintain CBF bank accounts in a reputable private bank located nearest the mill district.

2. 20% Lien or Socio-Economic Program Related Funds (SEPRF)

Within one (1) month from date of collection, the Mill shall directly remit and deposit on-line the 20% or SEPRF portion of the lien to the DOLE thru the BRW in the name of DOLE-SEPRF Collection Account No. 0012-1156-79 deposited and maintained at Land Bank of the Philippines-Intramuros Branch.

3. Unremitted lien collection. A penalty of ten percent (10%) per month on the unremitted lien collection shall be imposed upon the violator. Such penalties for non-remittance of lien collected shall accrue to the social and economic programs for the sugar workers.

c. Effect of opening CBF bank accounts - The Mill or Planters Association/Cooperative shall open and maintain CBF bank accounts in its name in trust for their workers-beneficiaries. The Mill or Planters Association/Cooperative, by opening and maintaining such account, agrees that the DOLE, as trustor, shall have the authority to inquire into such accounts, to have access to, and to have certified copies of, all records and supporting documents for all transactions relating to or affecting such accounts, including deposits to and withdrawals from such accounts, waiving for this purpose, any rights of such Mill or Planters Association/Cooperative under the bank secrecy law.

d. Execution of Trust Agreement - Each Mill or each Planter Association/Cooperative shall execute a trust agreement in favor of DOLE, in form and substance, in accordance with Annex "A" [*] hereof, which shall take effect from the date of its execution and shall continue until terminated by DOLE or with the consent of DOLE. Every remittance deposited to the CBF bank account of such Mill or Planters Association/Cooperative as trustee of the account, shall be covered by the trust agreement. The trust agreement shall stipulate, among others, that every such deposit to the CBF bank account is received by the Mill or Planters Association/Cooperative in trust for the workers-beneficiaries, and that the Mill or Planters Association/Cooperative shall release the CBF to the workers-beneficiaries in accordance with this Rule.

e. Periodic remittance by a Mill to CBF bank account - Every remittance deposited by a Mill to the CBF bank account shall be covered by a letter to the Planters Association/Cooperative in whose name the CBF bank account

is opened informing the latter of the amount deposited to the specific bank account. A copy of such letter shall be furnished to the appropriate DOLE Regional Office.

f. Report of Sugar Production, Withdrawal, Lien Collection and Remittance- For purposes of monitoring, the Mill shall submit to the DOLE Regional Office a monthly Report of Sugar Production, Withdrawal, Lien Collection and Remittance within ten (10) working days from end of the reference month.

The DOLE Regional Office shall submit to the Secretary of Labor thru the BRW an analysis of said report within fifteen (15) days from end of the reference month.

SECTION 3. Release of CBF -

a. Release to the Planters - The Mill or Planters' Association/Cooperative shall release the CBF, including any and all incomes or interests derived therefrom, to the unaffiliated and affiliated planters, respectively, based on the usual practice in the mill district but in no case shall it be later than 180 days from end of the milling season of the district.

In no case shall the CBF be released by the Mill or Planters Association/Cooperative to unaffiliated planters or affiliated planters, respectively, who have not submitted the required special payroll pertaining to previous CBF fund releases. The Mill or Planters Association/Cooperative shall submit to the DOLE Regional Office a quarterly report on the unreleased amount for non-submission of payroll of non-complying planters within ten (10) days after the end of the reference quarter. The DOLE Regional Office shall submit to the Secretary of Labor thru the BRW actions done on the said report within ten (10) days upon receipt thereof.

The Mill or Planters Associations/Cooperatives shall remit to the DOLE Regional Office all unclaimed CBF balances with certified list of unaffiliated and affiliated planters, respectively after the lapse of the prescribed period of CBF releases but not later than 30 days after the opening of the succeeding milling season.

b. Proof of CBF Releases - The release of CBF shall be evidenced by a duly signed planters payroll or certified xerox copy of the check issued in the name of the planter member.

The Mill or Planters Association/Cooperative shall submit to the DOLE Regional Office a report of CBF releases within ten (10) working days after the end of the reference month.

The DOLE Regional Office shall submit to the Secretary of Labor thru the BRW an analysis on the report of CBF releases and unclaimed CBF balances within fifteen (15) days from end of the reference month.

c. Books and Records - The Mill or Planters Association/Cooperative shall maintain their respective journals and ledgers to record transactions pertaining to the CBF, including unclaimed/undistributed CBF, which shall be subject to regular examination by the DOLE.

SECTION 4. Prohibition Against Deduction - The Mill, Affiliated and Unaffiliated Planters or other parties shall not directly or indirectly make any deduction of whatever kind or nature on the CBF.

RULE VII

Cash Bonus Distribution Program

SECTION 1. Coverage - For purposes of cash bonus distribution, the following sugar workers shall be covered:

- a. All mill and plantation employees/workers except managerial employees; and
- b. All sugar farm owners, operators or lessees who directly cultivate sugar land as beneficiaries under the Comprehensive Agrarian Reform Law (CARL)

SECTION 2. Distribution of Cash Bonus - All sugar Millers or Planters shall directly distribute the cash bonus already received to their respective workers at a frequency and period based on the usual practice in the mill district.

The cash bonus distribution to plantation workers shall be completed within one (1) month from the date of receipt of the CBF from the Mill, if unaffiliated planters, and from the Planters Association, if affiliated planters; otherwise, a penalty of ten percent (10%) per month on the undistributed cash bonus shall be imposed upon the violator. Such penalties for non-distribution of the cash bonus accrue to the sugar workers concerned.

The cash bonus distribution to mill workers shall likewise be completed within one (1) month from the scheduled date of distribution as agreed upon by the mill and mill workers' organization/s.

SECTION 3. Special Distribution of CBF -

a. After the lapse of the prescribed distribution period, the DOLE Regional Office in coordination with the Mill or Planters' Association/Cooperative shall be authorized to undertake special CBF distribution under any of the following conditions;

1. Written complaint filed by a substantial number of workers for non-distribution of their cash bonuses by the planters.
2. Workers who failed to claim their CBF during the scheduled distribution period and whose whereabouts are already established.
3. Upon receipt of notice or proof/information of impending mill closure.

b. The Planters' Association/Cooperative, in coordination and supervision of the DOLE Regional Office, shall be authorized to undertake special distribution of CBF during the three (3) month period that the undistributed CBF is in their custody under any of the following conditions:

1. Expiration of the management agreement between the landowner and the lessee.
2. Expiration of the lease agreement of the planter with the mill.
3. Non-submission of compliance and liquidation reports by planter members as proof of CBF distribution provided for in Section 3, Rule VIII, for a period of one (1) crop year.

SECTION 4. Formula for determining the cash bonus share of individual covered sugar worker - The formula for computing the share of the individual workers in every mill or plantation shall be as follows:

Step 1. Determine Factor -

Total CBF for Covered Workers

----- = FACTOR

Total Basic Annual Payroll of Covered Workers

Step 2. Determine Share of a Worker

Factor Individual

X

Total Basic Annual Salary of the Covered Worker = SHARE OF THE WORKER

Explanation:

- a. Covered workers represent all the workers during the covered crop year.
- b. Total annual payroll of covered workers represents all basic wages paid the covered workers during the crop year.
- c. Regardless of the total basic annual salary of individual covered worker, the cash bonus of the worker shall be computed on the basis of the following maximum credits:

For Mill Workers - P2,000.00 per month

For Plantation Workers - P1,000.00 per month

In case the workers earns less than the amount indicated above, his actual earnings shall be the basis for the computation.

SECTION 5. Evidence of Compliance - In compliance with the cash bonus distribution scheme prescribed under this Rule, all planters, millers, or planters association/cooperatives shall prepare three (3) copies of the prescribed special payroll, signed by the covered workers indicating therein amounts of bonuses they actually received and duly certified by the employer or his authorized representative. The payrolls paid out shall be submitted to the planters' association/cooperatives by affiliated planters and to the mill by the unaffiliated planters immediately after the distribution period. A copy of this special payroll shall be submitted to the nearest DOLE Regional Office.

Rule VIII**Liquidation of Cash Bonus**

SECTION 1. Liquidation of the Cash Bonus by the Planters - All unaffiliated planters and planter-members shall liquidate the CBF to the mill and to their association, respectively, within five (5) working days after the end of the one (1) month distribution period by submitting the following:

- a. Special CBF Payroll
- b. Cash/Check, if any, representing undistributed cash bonus

SECTION 2. Deposit of UCBF by the Mill and Planters' Association/Cooperative - The undistributed cash bonus fund (UCBF) shall be immediately deposited by the Mill or Planters Association/Cooperative to the CBF accounts provided under Rule VI, Section 2.b and shall remain to be deposited within three (3) months from the date of receipt from the unaffiliated and affiliated planters, respectively. Payment of cash bonus by the mills or planters' association/cooperative to worker-claimants certified by planters shall be drawn from the deposited UCBF.

SECTION 3. Liquidation of the Cash Bonus by the Mill and Planters Association/ Cooperative - The Mill or Planters' Association/Cooperative shall withdraw the undistributed cash bonus fund (UCBF), if any, including interests and penalties earned therefrom and remit the same to the DOLE Regional Office within seven (7) days after the expiration of the prescribed three (3) month period. A quarterly remittance report supported by a certified list of UCBF beneficiaries and the amount remitted shall be submitted to the DOLE Regional Office as proof of cash bonus liquidation.

SECTION 4. Processing of Unclaimed/Undistributed Cash Bonus Claim - The DOLE Regional Office shall hold in trust the unclaimed/undistributed cash bonus fund (UCBF) within a period of three (3) years from date of receipt of remittance from the Mill or Planters' Association/Cooperative. The said UCBF shall be deposited in a separate interest-bearing account with the authorized government depository bank in the name of

DOLE/RO-UCBF to pay cash bonus claims filed within the said three (3) year period by qualified planters or workers subject to the submission of the following documents:

For Worker-Claimant:

- a. Duly accomplished application form;
- b. Employer's Certification that the claimant whose name appears on the cash bonus special payroll and failed to claim his/her cash bonus during the scheduled distribution period are one and the same; and
- c. Worker/employee Identification Card, Social Security System Card or Community Tax Certificate.

For Planter-Claimant:

- a. Duly accomplished application form;
- b. Planter's Identification Card, SSS card or Community Tax Certificate; and
- c. If payment was advanced by the planter, copy of the duly paid CBF special payroll.

The DOLE Regional Office shall furnish the concerned Mill, Planters' Association/Cooperative a semi-annual report on the status of the the UCBF account. The DOLE Regional Office shall submit to the Secretary thru the BRW a quarterly analysis report on the status of UCBF account.

SECTION 5. Publication of unclaimed/undistributed cash bonus - The DOLE Regional Office is authorized to make at least three (3) publications in a radio station, local newspaper and by bills posted in public places informing the beneficiaries of their right to the cash bonus within and before the end of the three (3) year period.

The Mill or Planters' Association/Cooperative may likewise conduct information dissemination to notify concerned planters and workers of their right to the unclaimed/undistributed cash bonus within and before the end of the three (3) year period.

SECTION 6. Forfeiture - After the three (3) year period, all unclaimed/undistributed cash bonus shall be deemed forfeited. The forfeited amount, including its interests, shall be utilized for socio-economic projects or programs in favor of the sugar workers as recommended by the Sugar Tripartite Council.

The socio-economic projects or programs funded from forfeited cash bonus maybe implemented in the milling district from where the same is collected.

The Regional Office shall remit to the Secretary thru the BRW the forfeited amounts within one (1) month from date of forfeiture.

SECTION 7. Recovery of Unpaid Cash Bonus - Any dispute arising pursuant to the implementation of the Act and these Rules and Regulations with respect to recovery of unpaid cash bonus not exceeding Five Thousand Pesos (P5,000.00), inclusive of penalties thereon per worker shall be resolved thru summary proceedings after due notice by the Regional Director or any duly authorized Hearing Officer, pursuant to Rule XI, Book III of the Implementing Rules and Regulations of the Labor Code, as amended. When the evidence shows that the claim amounts to more than Five Thousand Pesos (P5,000.00), the Regional Director or Hearing Officer shall advise the complainant to amend the complaint and file the same with the appropriate branch of the National Labor Relations Commission.

The Regional Director or his duly authorized Hearing Officer may supervise the payment of unpaid cash bonus inclusive of the penalties referred to under Section 7 (d) of the Act.

SECTION 8. Appeal - Any decision or resolution by the Regional Director or duly authorized Hearing Officer may be appealed on the same grounds and follow the procedure for perfecting an appeal provided in Article 223 of the Labor Code, as amended.

Rule X

Monitoring

SECTION 1. Complementation Scheme on Collection Monitoring - The Department of Labor and Employment and the Sugar Regulatory Administration (SRA) shall establish a complementation scheme for the proper monitoring of sugar production, quotas issued and timely collection of the lien.

SECTION 2. Manual of Operation - The BRW shall formulate a Social Amelioration Program Operation Manual, including the Accounting and Management Reporting and Monitoring Systems of the Social Amelioration Program-Related Funds, pursuant to Republic Act No. 6982 and its Implementing Rules and Regulations, as amended.

The provisions of existing rules and regulations and administrative issuances not otherwise repealed, modified or inconsistent with these Rules, shall continue to have full force and effect.

These Rules and Regulations shall take effect starting sugar crop Year 2004-2005.

Adopted: 28 Oct. 2004

(SGD.) PATRICIA A. STO. TOMAS
Secretary

[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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