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MAGNA CARTA FOR SCIENTISTS, ENGINEERS, RESEARCHERS, AND OTHER SCIENCE AND TECHNOLOGY PERSONNEL IN GOVERNMENT (REPUBLIC ACT NO. 8439)

DOST, December 15, 2005

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Implementing Rules and Regulations As Amended

Background

Pursuant to Section 22 of Republic Act No. 8439, otherwise known as the Magna Carta for Scientists, Engineers, Researchers and Other Science and Technology Personnel in Government approved on December 22, 1997 which took effect on February 4, 1998, the following Rules and Regulations, as amended, are hereby adopted to effectively implement the provisions of the Act.

Rule 1
Coverage

SECTION 1. Declaration of Policy - The State recognizes science and technology as an essential element for the attainment of national development and progress. To attain this objective, it is hereby declared the policy of the State to provide for a program of human resources development in science and technology to achieve and maintain the necessary competent pool of expertise that will sustain its drive for total science and technology effectiveness and excellence.

The State shall establish, promote and support programs leading to the realization of this objective, such as the science, technology and engineering scholarship programs; improvement of the quality of science, technology and engineering education; promotion of science and technology culture; and provision of incentives for pursuing careers in science and technology.

In furtherance of this policy, the science and technology community shall ensure the utilization of research and development results to maximize benefits from such endeavors.

SECTION 2. Definition of Terms -

2.1 Department

Department refers to the Department of Science and Technology (DOST) created under Executive Order No. 128.

2.2 Scientific and Technological Activities (STA)

Scientific and Technological Activities refer to all systematic activities concerned with the generation, advancement, dissemination and application of scientific and technical knowledge in all fields of natural science and technology.

2.3 STA are classified into three broad groups, namely:

2.3.1 Research and Experimental Development (R &D)

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Research and Experimental Development is any systematic and creative work undertaken in the physical, natural, mathematical, and applied sciences in order to increase the stock of knowledge, and the use of this knowledge to devise new applications;

2.3.2 Scientific and Technological Services (STS)

Scientific and Technological Services refer to activities in support of scientific research and development, dissemination and applications of scientific and technical knowledge (i.e., library, information and museum services; geological and hydrological surveys; information and communications technology services; meteorological and seismological observations; compilation of routine statistics; testing, precision measurements, calibration, standardization and quality control; counseling of clients; patenting and licensing; engineering and technical services); and

2.3.3 Scientific and Technical Education and Training (STET)

Scientific and Technical Education and Training refer to all activities comprising higher education and training leading to a university degree, graduate, post-graduate and further training, organized lifelong training for scientists and engineers, and specialized non university higher education.

SECTION 3. Science and Technology (S &T) Personnel - Section 5 of Republic Act No. 8439 classifies S &T personnel in the following categories: (a) S & T managers, supervisors and planners; (b) members of the Scientific Career System; (c) scientists, engineers, and researchers; and (d) DOST technicians and related S & T personnel.

Section 8 of Republic Act No. 8439 provides that government S & T personnel not employed by the Department of Science and Technology (DOST), who are involved in STA may avail of the benefits under this Act upon certification of the DOST Secretary.

Personnel of R & D institutions and other organizations may be classified as S & T personnel provided that their institutions and the units in said institutions to which they belong have, among their major mandates and functions, those relating to science and technology; and provided further, that the personnel's individual functions relate to STA as defined in Section 3 of Republic Act No. 8439.

3.1 S & T Managers, Supervisors and Planners

S & T managers, supervisors and planners are those who are graduate degree holders or have at least ten years of managerial experience or are performing executive, planning and policy-making functions to effectively carry out S & T related activities as defined in Section 3 of Republic Act No. 8439.

3.1.1 S & T Managers are those who are employed in R & D institutions or other organizations conducting STA and who occupy the positions of Secretary, Undersecretary, Assistant Secretary, Executive Director, Director, Regional Director, Deputy Executive Director, Deputy Director, Department Service Chief and other officers of equivalent rank as may be identified by the Career Executive Service Board. S & T managers are those who are directly supervising STA. S & T manager positions are with equivalent salary grades of 27 and above.

3.1.2 S & T Supervisors are those who are employed in R & D institutions or other organizations conducting STA and who occupy the positions of Associate Scientist, Assistant Scientist, Division Chief, Supervising Science Research Specialist and other positions of equivalent rank. S & T supervisors are those who are directly supervising or undertaking STA. S & T supervisor positions are with equivalent salary grades of 22 and above.

3.1.3 S & T Planners are those who are employed in R & D institutions or other organizations conducting STA and who occupy the positions of Planning Officer IV, Project Development Officer IV, Project Evaluation Officer

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IV, and other positions of equivalent rank and are directly supervising or undertaking S & T planning activities. S & T planner positions are with equivalent salary grades of 22 and above.

3.2 Members of the Scientific Career System

Members of the Scientific Career System are those who have been conferred the rank of scientist in the Scientific Career System pursuant to Executive Order Nos. 784 and 901 dated 17 March 1982 and 19 July 1983, respectively.

3.3 Scientists, Engineers, and Researchers

Scientists, engineers, and researchers are those who are employed at the Research and Development Institutes and other organizations, who are at least college degree holders in any of the natural science and engineering courses and are involved in research and development or other scientific and technological activities. Natural science and engineering courses shall include, but not limited to, basic/natural sciences and mathematics; engineering and information and communications technology; medical sciences and agricultural geography; library and archival sciences, and scientific and technical documentation.

Scientists, engineers, and researchers are individuals who, as abovementioned spend at least fifty percent of their official time in the conception and application of scientific knowledge, and/or engineering and technological principles, products, processes, methods and systems.

3.4 DOST Technicians and DOST S & T Related Personnel

3.4.1 DOST technicians are persons who operate and maintain technical and scientific equipment, and perform other related task connected with research and the application and concepts and operational methods in the fields of engineering and natural sciences. They have acquired their technical competencies either through baccalaureate degree program or on-the-job learning or completion of relevant technical-vocational education and training courses.

3.4.2 DOST S &T related personnel refer only to all other DOST employees who do not qualify under the preceding sections and are providing support services to S & T personnel and performing functions such as, but not limited to, secretarial, clerical, financial, maintenance work; science teaching and training; information handling, processing, and services; marketing and promotion; statistical work; data gathering; planning; documentation and publication; library services and other scientific and technological services.

3.4.3 DOST technicians and DOST S & T-related personnel must possess any of the following qualifications:

3.4.3.1 Have at least 12 units in natural science, engineering and other related courses; or

3.4.3.2 Have completed any appropriate technical training which enhances their skills from an institution, including the DOST Technology Training Center and its accredited training institutions, duly recognized by the DOST Secretary and, provided further, that the DOST Secretary shall determine the appropriate training requirements for each position.

SECTION 4. Exemption from the Attrition Law and Civil Service Rule on Nepotism - Appointment of S & T personnel to positions of research assistant and upwards shall not be covered by the Attrition Law and Civil Service Commission (CSC) rule on nepotism in consideration of the highly technical nature of these positions.

Rule II
Benefits

SECTION 1. Who are Entitled - S & T personnel who occupy plantilla positions whether permanent or

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temporary, on full-time or part-time basis, and contractual, casual or emergency positions charged to lump-sum appropriations now existing or hereafter created provided that they conform with the provisions of Section 5 of Republic Act No. 8439, shall be entitled to the benefits provided hereunder.

SECTION 2. Types of Benefits - Notwithstanding Section 12 of Republic Act No,. 6758, science and technology personnel defined under Section 5 of R.A. No. 8439, shall receive the following benefits: honorarium, share in royalties, hazard allowance, subsistence allowance, laundry allowance, housing and quarters allowance, longevity pay and medical examination.

2.1 HONORARIUM

S & T personnel who render services beyond the established regular workload, whose broad and superior knowledge, expertise or professional standing in a specific field contributes to productivity and innovativeness, shall be entitled to receive honorarium subject to rules set by the Department.

2.2 SHARE IN ROYALTIES

2.2.1 Share in royalties shall be defined as a share in the proceeds of royalty payments arising from patents, copyrights and other intellectual property rights.

2.2.2 Intellectual property rights as presently defined in the Intellectual Property Code shall consist of the following:

a. Copyrights and related rights;
b. Trademarks and service marks;
c. Geographic indications;
d. Industrial designs;
e. Patents;
f. Layout designs (topographies) of integrated circuits;
g. Protection and undisclosed information;

2.2.3 S & T scientists, engineers, technologists, researchers and other S & T personnel involved in STA shall be entitled to receive share in royalties subject to the guidelines of the Department. The share in royalties shall be on a sixty percent forty percent (60% - 40%) basis in favor of the Government and the personnel involved in the technology/activity which has been produced or undertaken during the regular performance of their functions.

2.2.4 If the researcher works with a private company and the program of activities currently or to be undertaken has been mutually agreed upon by the parties concerned, any royalty arising therefrom shall be divided according to the equity share in the research project.

2.3 HAZARD ALLOWANCE

2.3.1 Hazard allowance is a compensation premium, which is generally paid to S & T personnel who are exposed to hazards, directly or indirectly, because of the nature and/or location of their work.

2.3.2 S & T personnel involved in hazardous undertakings or assigned in hazardous workplaces shall be paid hazard allowance equivalent to 15% or 30 % of their monthly basic salary depending on the nature and extent of the hazard involved. If exposure to hazard is direct, the S & T personnel are entitled to hazard allowance equivalent to 30% of their monthly basic salary. If exposure to hazard is indirect, the S & T personnel is entitled to hazard allowance of 15% of their monthly basic salary. Indirectly exposed are those who have frequent

interaction with personnel of agencies who are directly exposed to hazards, or from time to time exposed to hazardous workplaces.

2.3.3 Hazardous workplaces cover any of the following:

2.3.3.1 Difficult/distressed or hardship posts characterized by distance, inconvenience of travel due to bad roads and conditions of the terrain, isolation, inaccessibility and extreme weather conditions; remote/depressed areas;

2.3.3.2 Work areas on land, air, and seas that are high danger zones to natural hazards;

2.3.3.3 Work areas that may pose risks or dangers to health or safety due to exposure to dangerous working conditions or environmental elements such as, contaminants; ionizing radiation; communicable, contagious, infectious diseases; flammable/combustible, explosive, reactive, corrosive and toxic chemicals and biologicals; absence or inadequate supply of safe and potable water; harmful physical substances and mechanical devices, operation of heavy equipment/apparatus; and other environmental hazards;

2.3.3.4 Strife-torn or embattled areas where conflict exists;

2.3.3.5 Work areas declared as under a state of calamity or emergency;

2.3.3.6 Laboratories and service workshops

2.3.4 Other Provisions

2.3.4.1 The agency head shall determine the personnel entitled to this allowance and the extent of exposure of said personnel to hazards.

2.3.4.2 Payment shall be based on actual exposure to hazard in the work area and while in the performance of the assigned work. The entitlement to the hazard allowance shall be co-terminus with the assignment of the personnel in the hazardous work or work areas.

2.3.4.3 Personnel who are entitled to receive hazard allowance under existing laws, special laws, charters or enabling acts may opt to avail instead, of the hazard allowance under R.A. No. 8439.

2.3.4.4 Personnel who are on secondment or who are on full time detail to another agency are not entitled to the hazard allowance except when the personnel of the agency to which they are seconded or detailed are entitled to such an allowance.

2.3.4.5 The declaration of the hazardous work areas shall be duly certified by the Secretary of the Department upon recommendation of the agency head. The Secretary may refer to the appropriate authorized agency for the necessary certification.

2.4 SUBSISTENCE ALLOWANCE

2.4.1 S & T personnel are entitled to full subsistence allowance equivalent to three meals a day or one hundred fifty pesos (P150.00) per day.

2.4.2 In case an employee renders half-day service, he/she is entitled to fifty percent (50%) or seventy five pesos (P75.00) The payment of this allowance shall be based on the actual presence of the S & T personnel either in the office or on official business/official time. Services of less than four hours shall not entitle the employee to subsistence allowance.

2.4.3 Those assigned outside of their regular work stations are entitled to per diem as provided by pertinent administrative issuances, instead of subsistence allowance. Likewise, the stipends of scholars shall be in lieu of

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subsistence allowance.

2.4.4 S & T personnel pursuing higher education and attending local non-degree training on official time without stipend, shall be entitled to subsistence allowance.

2.5 LAUNDRY ALLOWANCE

S & T personnel who are required to wear the prescribed uniform during office hours shall be entitled to laundry allowance of five hundred pesos (P500.00) per month. Personnel who are exempted under existing regulations, from wearing uniform are also entitled to receive the allowance.

2.6 HOUSING AND QUARTERS ALLOWANCE

2.6.1 Housing and quarters allowance is given to S & T personnel who are on duty beyond office hours in laboratories, R & D centers and other government facilities.

2.6.2 Employees concerned are entitled to free living quarters within the government facility where they are stationed, provided, their residence is outside the fifty kilometer radius from such government facility.

2.6.3 Availment of housing and quarters is subject to availability of facilities. If there are none, costs of board and lodging shall be borne by the agency concerned.

2.7 LONGEVITY PAY

2.7.1 A monthly longevity pay equivalent to five percent of the monthly basic salary shall be paid to S & T personnel for every five years of continuous and meritorious service as determined by the Secretary of the Department. "Continuous and meritorious" service shall mean service without gap and with a very satisfactory performance rating for the last two semesters immediately preceding the date of entitlement of said benefit. Service without gap includes leave with pay; privilege leaves authorized by the Civil Service Commission; leave without pay but authorized by the head of agency on valid grounds such as prolonged sickness and efforts to professionalize the civil service. During the specific year that the employee did not perform meritoriously, he/she shall not be entitled to receive the longevity pay for that period.

2.7.2 Payment of longevity pay shall cover the entire S & T government service as defined in the above provision, from the S & T personnel's original appointment, subject to the approval of the DOST Secretary upon the recommendation of the agency head.

2.8 MEDICAL EXAMINATION

2.8.1 During the tenure of their employment, the S & T personnel shall be given a compulsory free medical examination once a year and immunizations as the case may warrant.

2.8.2 The medical examination shall include:

a. Complete physical examination;
b. Routine laboratory, chest x-ray and ECG;
c. Psychometric examination;
d. Dental examination; and
e. Other indicated examination

SECTION 3. Prohibition Against Diminution and/or Elimination - Nothing in R.A. 8439 and in this IRR shall be

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construed to eliminate or in any way diminish benefits being enjoyed by S & T personnel at the time of the effectivity of R.A No. 8439.

SECTION 4. Prohibition Against Double Benefits - S & T personnel already receiving the same benefits under any other law shall not be allowed to avail of the benefits under R.A. No. 8439 unless they submit in writing their withdrawal of the benefits already being received and opt for those herein provided.

SECTION 5. Termination of Entitlement to Benefits - Entitlement to benefits under R.A. 8439 shall be terminated when the grantee ceases to perform as S & T personnel by reason of change of work assignment to non S & T functions, retirement, death, resignation, transfer, dismissal, reorganization or phase out activity, and similar cause.

Rule III
Scholarships and Grants

SECTION 1. Conditions for Scholarships and Grants - S & T personnel in public and private sectors shall be entitled to avail of scholarship benefits and grants to pursue undergraduate, graduate, post-graduate or training courses in accordance with a Scholarship Program implemented by the Department.

1.1 Scholarship privileges may be on a full-time or part-time basis and shall include tuition fee, book allowance, transportation allowance, monthly stipend, dissertation grants, insurance and the payment of regular salary and other benefits.

1.2 Grantees of the program may study within the Philippines or abroad provided that the Department shall provide strict measures to ensure their return to the country to render the service obligation.

1.3 Recipients of undergraduate scholarships shall, after graduation, be required to render service in the government for the equivalent number of years that they availed of their scholarships. However, in case where there are no available positions in the government, they may be allowed to work in the private sector.

SECTION 2. Privileges of Government S & T Scholars and Training Grantees -

2.1 Graduates or grantees of government S & T scholarships programs or trainings shall be given temporary waiver of CSC eligibilities for at least two years. They can be hired in the government service on a temporary basis for two years while waiting for the release of the results of examinations of the Civil Service Commission or professional licensure examinations of the Professional Regulation Commission.

2.2 Graduates or grantees of government S & T scholarship programs or trainings shall be given preferential access to financial grants from any government agency/financial institution authorized to extend grants and loans with easy terms, for science and technology projects which are viable and in line with the development thrusts of the country.

Availment of grants and loans shall be subject to the following:

2.2.1 The accumulated duration of training availed of should be at least six months and in line with one's expertise, and within the mandates of the agency.

2.2.2 Application for grants or loans shall be subject to the evaluation of the DOST and the government agency/financial institution.

2.2.3 The grant or loan shall be used to undertake an S & T project or to commercialized technologies.

Rule IV

Consultancy Services and Details/Secondment to the Private Sector

SECTION 1. Consultancy Services -

1.1 General Conditions - Scientists, engineers, researchers, technologists, DOST technicians and other DOST S & T related personnel shall be allowed to render consultancy services to the private sector and shall be entitled to receive such honorarium that may be paid to them by the private entity concerned. Such payments shall be over and above their salaries from the government during the period of consultancy and shall not be considered as double compensation; provided, that the consultancy work does not jeopardize or adversely affect the operations or activities of the mother agency; that there shall be full disclosure of the consultancy contract to the mother agency; and provided further, that it is subject to the approval of the Secretary of the department concerned.

1.2 Specific Conditions

1.2.1 S & T personnel who render consultancy services shall have permanent appointment.

Contractual and casual personnel whose salaries are charged to lump-sum appropriation may be allowed to accept consultancy services on a selective basis as may be determined by the agency head.

1.2.2 In addition to one's regular projects, the S & T personnel shall be allowed to provide either local or foreign consultancy work in any private entity. Local consultancy shall be allowed for a maximum of forty-eight working days per year taken either on staggered or cumulative basis; and foreign consultancy shall be allowed a maximum of two months per year. In case of extension, the S & T personnel must file a leave of absence not to exceed one year inclusive of the two-month consultancy period already availed of, subject to the approval of the agency head.

1.2.3 There shall be full disclosure of the consultancy contract to the mother agency, as governed by a tripartite contract among the hiring institution, the mother agency and the S & T personnel.

1.2.4 S & T personnel cannot render consultancy services to an institution where they have direct oversight functions or where they are responsible for the evaluation and screening of projects funded by grants from their agencies.

SECTION 2. Detail/Secondment to the Private Sector -

2.1 General Conditions

2.1.1 Provisions of existing laws notwithstanding, scientists, engineers, researchers, and other S & T related personnel who are employed on a regular basis in the government may be seconded to any private entity where such services are needed; provided, that the duration of such secondment shall not exceed one year; the detail or secondment of said personnel will not hamper or adversely affect the operations or activities of the mother agency; and the head of the agency approves the detail or secondment.

2.1.2 During the period of such secondment, the salary of the seconded S & T personnel shall be borne by the seconding private entity. The period of secondment shall be included in computing the lenght of service for purposes of retirement but not for the commutation of leave credits earned in the mother agency. The S & T personnel shall not earn leave credits in the mother agency during the period of secondment to the private sector.

2.1.3 Such secondment shall not likewise affect the S & T personnel's security of tenure or result in the loss of one's seniority rights.

2.2 Special Conditions

2.2.1 S & T personnel who have rendered at least four years of continuous and actual service in the agency shall

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be allowed secondment to a private entity requiring their expertise, for not more than twelve months.

2.2.2 S & T personnel who avail of this arrangement must serve the DOST or concerned agency for four years after the secondment before another secondment may be granted upon the recommendation of the agency head and approval of the Secretary of the department concerned.

2.2.3 During the secondment, the S & T personnel shall receive salary and other benefits including commutable leave credits one may be entitled to from the private entity where one is seconded. Such personnel shall not be entitled to any benefits provided under Republic Act No. 8439.

2.2.4 The agreement for secondment shall be covered by a tripartite contract among the S & T personnel, the mother agency, and the private entity, with full disclosure of the terms and conditions of the secondment.

2.2.5 In case the seconded S & T personnel opts to continue the secondment beyond the period agreed upon, or to remain in the private sector, he/she shall have to resign/retire from the government service provided that he/she has no scholarship/service/ financial obligation to the mother agency. Provided, further, that the period of secondment immediately preceding the resignation shall not be counted in the computation of the number of years of service in the government.

Rule V
Hiring of Retired Scientists and Technical Personnel

SECTION 1. Hiring of Retired S & T Personnel

1.1 S & T personnel retired under any existing law, who, in the judgment of the governing board or head of a research agency, possess technical qualifications and the capability to undertake specific scientific research activities, may be rehired on contractual basis without refunding the unexpired portion of the gratuity and accumulated leave benefits received by them from the government; provided that no qualified science and technology expert currently employed in the agency is available to undertake said scientific activities.

1.2 The retired S & T personnel to be rehired must be mentally, emotionally and physically fit as supported by a medical certificate.

Rule VI
Science and Technology Awards

SECTION 1. S & T Awards -

1.1 A Science and Technology Awards Committee shall be established which shall confer annually the science and technology awards for outstanding achievements and excellence or original contribution to science and technology. The Committee shall promulgate guidelines implementing this Section and shall specify the categories of awards to be given and the amount of financial reward for each category.

1.2 Such Committee shall take into consideration the existing awards system being administered by the various councils and agencies of the DOST.

Rule VII
Congressional Commission on Science and Technology Review

SECTION 1. Congressional Commission on Science and Technology Review - Pursuant to Sec. 19 of R.A. No. 8439, the Congressional Commission on Science and Technology (S & T COM) shall review and assess, among others, the state of the Philippine human resources development in S & T, the state of computerization and information technology in the Philippine economy and society, and the implementation of Republic Act No. 8439.

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Such Congressional review shall be undertaken at least once every five years.

Rule VIII
Special Provisions

SECTION 1. Science and Technology Career System - A career system for science and technology personnel in the service of the government, patterned after the Scientific Career System (SCS), shall be formulated by a committee to be created by the DOST Secretary in coordination with the Civil Service Commission (CSC) and such other agencies as may be necessary.

SECTION 2. Salary Scale - Pursuant to Section 6 of Republic Act No. 8439, the Department shall promulgate the salary scale of S &T personnel in consultation with the Department of Budget and Management and the Civil Service Commission, and subject to the approval of the President.

SECTION 3. Highest Basic Salary Upon Retirement -

3.1 Upon retirement under any existing law, the S & T personnel concerned shall automatically be granted one salary grade higher than his/her basic salary at the same step of his/her current salary grade, or the highest actual salary received.

3.2 Retirement benefits shall be computed on the basis of his/her highest salary received.

SECTION 4. Human Resource Development Council - The Science and Technology Human Resource Development Council (S & T HRDC) created under the Republic Act No. 8248 shall formulate the rules and regulations and implement the scholarship programs as provided in Section 1, Rule III. The scholarship programs of DOST, its councils and agencies, shall be submitted to the S & T HRDC.

SECTION 5. Funding - The department, agency or office concerned shall provide the necessary funds through appropriations or savings to cover the availment of benefits under R.A. No. 8439 by their respective eligible S & T personnel.

Rule IX
Report of the Secretary

ANNUAL REPORT - The Secretary of DOST shall submit to the Congressional Commission on Science and Technology, an annual report on the status of implementation of R.A. No. 8439.

Rule X
Date of Effectivity

EFFECTIVITY - These amended rules and regulations shall take effect fifteen days after publication.

(SGD) ESTRELLA F. ALABASTRO
Secretary

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