

**[ BWC (DOLE), January 07, 1993 ]**

**RULE II, BOOK VI OF THE RULES IMPLEMENTING THE LABOR CODE (RETIREMENT BENEFITS FOR EMPLOYEES IN THE PRIVATE SECTOR)**

Pursuant to the provisions of Article 287 of the Labor Code as amended by Republic Act No. 7641, in relation to Article 5 of the same Code, Rule II of Book VI of the Rules Implementing the Labor Code is hereby issued, the full text of which shall read as follows:

**RULE II**  
**Retirement Benefits**

**SECTION 1.** General Statement on Coverage — This Rule shall apply to all employees in the private sector, regardless of their position, designation, or status and irrespective of the method by which their wages are paid, except to those specifically exempted under Section 2 hereof. As used herein, the term Act shall refer to Republic Act No. 7641, which took effect on January 7, 1993.

**SECTION 2.** Exemptions — This Rule shall not apply to the following employees:

2.1 Employees of the National Government and its political subdivisions, including Government-owned or controlled corporations, if they are covered by the Civil Service Law and its regulations.

2.2 Domestic helpers and persons in the personal service of another.

2.3 Employees of retail, service, and agricultural establishments or operations regularly employing not more than ten (10) employees. As used in this sub-section:

- a. Retail establishment is one principally engaged in the sale of goods to end-users for personal or household use. It shall lose its retail character qualified for exemption if it is engaged in both retail and wholesale of goods.
- b. Service establishment is one principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such.
- c. Agricultural establishment/operation refers to an employer which is engaged in agriculture. This term refers to all farming activities in all its branches and includes, among others, the cultivation and tillage of the soil, production, cultivation, growing and harvesting of any agricultural or horticultural commodities, dairying, raising of livestock or poultry, the culture of fish and other aquatic products in farms or ponds, and any activities performed by a farmer or on a farm as an incident to or in conjunction with such farming

operations, but does not include the manufacture or processing of sugar, coconut, abaca, tobacco, pineapple, aquatic, or other farm products.

### SECTION 3. Retirement Under CBA/Contract —

3.1 Any employee 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 5 hereof on the payment of retirement benefits.

3.2 In case of retirement under this Section, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other agreements; provided, however, that an employee's retirement benefits under any collective bargaining and other agreements 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 employee 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. Optional/Compulsory Retirement —

4.1 Optional Retirement — In the absence of a retirement plan or other applicable agreement providing for retirement benefits of employees in an establishment, an employee may retire upon reaching the age of sixty (60) years or more if he has served for at least five (5) years in said establishment.

4.2 Compulsory Retirement — Where there is no such plan or agreement referred to in the immediately preceding sub-section, an employee shall be retired upon reaching the age of sixty-five (65) years.

4.3 Upon retirement of an employee, whether optional or compulsory, his services may be continued or extended on a case to case basis upon agreement of the employer and employee.

4.4 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, regular holidays, and mandatory fulfillment of a military or civic duty.

### SECTION 5. Retirement Benefits —

5.1 In the absence of an applicable employment contract, an employee who retires pursuant to the Act 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.