



BOARD RESOLUTION NO. 17-02 -08

Prescribing the Guidelines in the Implementation of Art. 206 [formerly 200] of P.D. No. 626, as Amended, Amending for This Purpose Rule XX, Section 1 of the Amended Rules on Employees' Compensation

WHEREAS, Art. 206 [formerly 200] of P.D. No. 626, as amended, provides:

"ART. 206. Safety Devices.-In case the employee's injury or death was due to the failure of the employer to comply with any law, or to install and maintain safety devices, or take other precautions for the prevention of injury, said employer shall pay to the State Insurance Fund a penalty of twenty-five percent of the lump sum equivalent of the income benefit payable by the System to the employee. All employers, especially those who should have been paying a rate of contribution higher than that required of them under this Title, are enjoined to undertake and strengthen measures for the occupational health and safety." (emphasis supplied)

WHEREAS, Rule XX, Section 1 of the Amended Rules on Employees' Compensation provides:

"SECTION 1. Penalty for failure to install and maintain safety devices, etc.- The System shall determine for purposes of imposing the penalty provided in Art. 200 of the Code, whether the employee's sickness, injury or death was due to the failure of the employer to comply with any health and safety law, or failure to install and maintain safety devices in accordance with standards set by the Commission, or take other precautions for the prevention of the sickness, injury, or death..."

WHEREAS, the increasing number of accidents in the work-place finds the need to strengthen measures to ensure the safety and health of workers;

WHEREAS, all employers are required to comply with safety and health measures in the workplace in accordance with the Labor Code of the Philippines and the Occupational Safety and Health (OSH) standards;

WHEREAS, the implementation of the abovementioned provision under P.D. No. 626, as amended, and its Implementing Rules and Regulations will strengthen the efforts of the DOLE to prevent work-related incidents resulting to injuries, disabilities or deaths;

WHEREAS, the prevailing Rules on Labor Law Compliance System (LLCS) provides for three modes of implementation of the Occupational Safety and Health Standards namely joint assessment, compliance visit and occupational safety and health standard investigation, aimed at improving work conditions, among others;

WHEREAS, through the LLCS, the employers who fail to comply with any health and safety law or install and maintain safety devices or take other precautions causing the employee's injury or death can be identified;

WHEREAS, in the event that a disabling injury, as contemplated under the LLCS, occurred in a work-place due to non-compliance with OSH standards, erring employers shall be penalized in accordance with Art. 206 (formerly 200) of P.D. No. 626, as amended;

WHEREAS, this Commission finds the need to provide guidelines for purposes of implementation of Art. 206 (formerly 200) of P.D. No. 626, as amended:

NOW THEREFORE, ON MOTION DULY MADE AND SECONDED

This Commission **RESOLVES** as it hereby **RESOLVED** to amend Rule XX, Section 1 of the Amended Rules on Employees' Compensation which provides:

"SECTION 1. Penalty for failure to install and maintain safety devices, etc.- The System shall determine for purposes of imposing the penalty provided in Art. 200 of the Code, whether the employee's sickness, injury or death was due to the failure of the employer to comply with any health and safety law, or failure to install and maintain safety devices in accordance with standards set by the Commission, or take other precautions for the prevention of the sickness, injury, or death. The requisite standards shall be set by the Commission within 6 months after the effectivity of these Rules."

The said section shall now read as follows:

SECTION 1. Guidelines for the Imposition of Penalty for Work-Related Accident due to Failure of the Employer to Comply with Occupational and Safety Health (OSH) Standards or to Install and Maintain Safety Devices

(a) The assessment on whether the cause of the accident was due to the failure of the employer to comply with OSH Standards or to install and maintain safety devices shall be undertaken by the concerned DOLE Regional Office, pursuant to the prevailing Rules on Labor Law Compliance System (LLCS).

(b) The assessment made by the DOLE Regional Director that the cause of the accident was due to the fault of the employer shall serve as the basis of the SSS for the imposition of the penalty under Art. 206 (formerly 200) of P.D. No. 626, as amended.

(c) The assessment made by the Regional Director may be appealed to the Secretary of the Department of Labor and Employment (DOLE) whose decision shall become final and executory after ten (10) days upon receipt by the employer unless the Court issues a Temporary Restraining Order (TRO),.

(d) The DOLE, through the Bureau of Working Conditions, shall provide a copy of its final decision to the ECC Secretariat for the purpose of transmittal to the SSS.

(e) The SSS, in turn, shall proceed against the erring employer to collect the penalty of twenty-five percent (25%) of the lump sum equivalent of the income benefit, as defined under Art. 173 (formerly 167) (p) of P.D. No. 626, as amended, paid by the SSS to the covered member or his/her beneficiaries.

(f) In all claims for EC medical reimbursement filed by the employer, the SSS shall require the submission of DOLE clearance from both the concerned Regional Office and from the Office of the DOLE Secretary showing that the employer has no pending case under Art. 206 (formerly 200) of P.D. No. 626, as amended. Otherwise, the SSS shall withhold the processing of the same pending the final resolution of the case.

(g) In the event that the concerned employer was held liable, the SSS shall deduct the amount of the penalty from the allowed total amount of EC medical reimbursement if the same is higher than the amount of the penalty.

(h) If the allowed total amount of EC medical reimbursement is lesser than the amount of the penalty, the same shall accrue to the State Insurance Fund. The SSS shall collect the remaining amount of the penalty from the erring employer.

RESOLVED FURTHER, that the DOLE-ECC and the SSS may sign a Memorandum of Agreement (MOA) in the implementation of this Resolution;

RESOLVED FINALLY, that this Resolution shall take effect fifteen (15) days after its publication in a newspaper of general circulation and copy of this Resolution be furnished to the DOLE-BWC and to the SSS for guidance and compliance.

APPROVED in City of Makati, this 21st day of February, 2017



CIRIACO A. LAGUNZA III

Chairperson-Alternate
Department of Labor and Employment



BRENDA P. VIOLA

Member-Designate
Social Security System



DIONISIO C. EBDANE, JR.

Member-Designate
Government Service Insurance System



CARLITO P. ROBLE

Member
Employees' Sector



RAMON F. ARISTOZA, JR.

Member-Designate
Philippine Health Insurance Corporation



STELLA ZIPAGAN-BANAWIS

Member
Employees' Compensation Commission - Secretariat