

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
Manila

**UNIFORM RULES ON DISPUTE RESOLUTION UNDER PRESIDENTIAL DECREE
NO. 242, AS AMENDED, FOR GOVERNMENT AGENCIES AND
INSTRUMENTALITIES, AND GOVERNMENT-OWNED OR CONTROLLED
CORPORATIONS**

WHEREAS, the resolution of disputes, claims, and controversies affecting government departments, bureaus, offices, agencies and instrumentalities, including government-owned or controlled corporations, are governed by different rules of the adjudicating offices such as the Department of Justice, the Office of the Solicitor General and the Office of the Government Corporate Counsel;

WHEREAS, it is the policy of the State to actively promote the use of arbitration and mediation, to achieve speedy and impartial justice, to curb a litigious culture and to de-clog court dockets;

WHEREAS, disputes, claims, and controversies affecting government departments, bureaus, offices, agencies, and instrumentalities, including government-owned or controlled corporations, are inherently imbued with public interest and the speedy resolution of such disputes, claims, and controversies is in the best interests of the public;

WHEREAS, to meet the challenges pose before the concerned adjudicating offices, there is a necessity to provide a set of uniform rules for the resolution of disputes, claims, and controversies between or among government departments, bureaus, offices, agencies, and instrumentalities, including government-owned or controlled corporations;

WHEREAS, pursuant to Section 7 of Presidential Decree (P.D.) No. 242, dated July 10, 1973, Section 17 of Administrative Order No. 121, dated July 25, 1973 and Section 71, Chapter 14 of Executive Order No. 292, dated July 25, 1987, the Secretary of Justice is authorized to promulgate rules as may be necessary to carry out the provisions of the said laws;

WHEREFORE, these *Uniform Rules on Dispute Resolution* are hereby adopted for a speedy and efficient resolution of disputes, claims, and controversies under P.D. No. 242, as amended.

Rule 1 – Scope and Definition

Section 1.1. Title. These rules shall be known as the Uniform Rules on Dispute Resolution under P.D. No. 242, as amended.

Section 1.2. Scope. These Uniform Rules shall govern the resolution of all disputes, claims, and controversies between or among government departments, bureaus, offices, agencies, and instrumentalities, including government-owned or controlled corporations, filed before and settled or adjudicated under P.D. No. 242, as amended.

Section 1.3. Definition. – For the purpose of these Rules, the following terms shall have the following meanings:

1.3.1. Adjudicating offices mean the Office of the Secretary of Justice (OSEC), the Office of the Solicitor General (OSG), and the Office of the Government Corporate Counsel (OGCC).

1.3.2. Arbitration means an adjudication under P.D. No. 242 as a mode of administrative settlement of disputes conducted by an Arbitral Tribunal which issues in due course a resolution subject to the final approval of the Secretary of Justice.

1.3.3. Arbitration means an adjudication under P.D. No. 242 as a mode of administrative settlement of disputes conducted by an Arbitral Tribunal which issues in due course a resolution subject to the final approval of the Secretary of Justice.

1.3.4. Claimant means the agency/ies with a claim against another agency/ies and which commence/s arbitration against the latter.

1.3.5. Conciliation means a mandatory process whereby the parties are encouraged to enter into an amicable settlement or compromise agreement.

1.3.6. Dispute Resolution means the process or procedure used to resolve a dispute or controversy, through mandatory conciliation and arbitration.

1.3.7. Government-Owned or Controlled Corporations (GOCC) refers to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government of the Republic of the Philippines directly or through its instrumentalities whether wholly or, where applicable as in the case of stock corporations, to the extent of at least a majority of its outstanding capital stock. This term shall also include subsidiaries, offspring, acquired asset corporations, government instrumentalities with corporate powers (GICP), government corporate entities (GCE) and government financial institutions (GFI) and other government entities.

1.3.8. National Government Agency (NGA) means any government entity, department, bureau, office, or officer in the exercise of its official function, other than an office that is vested by law with quasi-judicial power or the power to resolve or adjudicate disputes involving the government, its agencies and instrumentalities.

1.3.9. Resolution means a written statement and discussion of the facts and the authority relied upon for the disposition of the issues, which statement shall be signed by a majority of the members of the arbitral tribunal.

1.3.10. Respondent means the agency/ies against which the claimant/s commence/s arbitration.

1.3.11. Settlement Agreement means a settlement agreed upon during the conciliation stage duly signed by the parties and their respective counsels.

RULE 2 – Arbitration

Section 2.1. How commenced. A party initiating recourse to arbitration (hereinafter called “claimant”) shall file a Petition in three (3) copies with the adjudicating office pursuant to Section 3 of P.D. No. 242, with proof of service of a copy thereof to the other party (hereinafter called “respondent.”).

Section 2.2. Petitions involving mixed questions of law and of fact or only factual issues shall be filed with:

2.2.1. The Office of the Solicitor General with respect to disputes or claims or controversies between or among NGAs.

2.2.2. The Office of the Government Corporate Counsel, with respect to disputes or claims or controversies between or among the GOCCs being served by the said office.

2.2.3. The Secretary of Justice, with respect to all other disputes or claims or controversies which do not fall under the categories mentioned in paragraphs (2.2.1) and (2.2.2).

Petitions raising only questions of law shall be filed with the Secretary of Justice.

Section 2.3. Where a petition with mixed questions of fact and law is originally filed with the Secretary of Justice, the latter may assume jurisdiction of the proceeding or refer to either the OSG or the OGCC for the adjudication of the dispute, provided that the adjudicating office, after evaluation, finds that the petition involves pure question of law it shall continue to handle the proceeding and draft the corresponding resolution for the approval of the Secretary of Justice.

Section 2.4. Contents of Petition. The petition shall include the following:

- (a) The names and addresses of the parties and other contact details such as e-mail addresses and phone numbers;
- (b) A concise statement of the facts and issues involved and the grounds relied upon;
- (c) The relief or remedy sought;

- (d) The signature of the head of the NGA or GOCC or their respective duly authorized representatives;
- (e) A certification signed by the head of the NGA or GOCC or their duly authorized representatives that: (a) the NGA or GOCC has not theretofore commenced any action or filed any claim involving the same in any court, tribunal or quasi-judicial agency and, to the best of his/her knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he/she should thereafter learn that the same or similar action or claim has been filed or is pending, he/she shall report that fact within five (5) days therefrom to the adjudicating office wherein the aforesaid petition has been filed; and
- (f) The petition shall be verified by the head of the NGA or GOCC or their respective duly authorized representatives, by an affidavit stating therein that he/she has read the petition and that the allegations therein are true and correct of his/her personal knowledge or based on authentic records; provided that the said affidavit shall contain a jurat indicating that the affiant has exhibited competent evidence of identity; provided further that the phrase "competent evidence of identity" refers to the identification of an individual based on at least one current identification document issued by an official agency bearing the photograph and signature of the individual.

Section 2.5. Constitution of the Arbitration Tribunal. Upon receipt of the petition, the head of the adjudicating office concerned shall constitute an arbitral tribunal composed of a Chairman and two (2) members. The head of the adjudicating office or his/her duly designated or authorized representative will act as Chairman while the two (2) members shall be chosen by the head of the adjudicating office. For cases involving pure questions of law, a sole arbitrator shall be designated by the head of the adjudicating office.

Section 2.6. Order to file Answer. The arbitral tribunal shall, within fifteen (15) days from the filing of the petition, issue an Order for the respondent/s to answer the petition within a non-extendible period of thirty (30) days from receipt thereof and to furnish the claimant with a copy of the answer and all supporting documents.

Section 2.7. Contents of Answer. The answer shall include the following:

- (a) A confirmation or denial of all or part of the claims pointing out the insufficiency or inaccuracy of the claimant's statement of facts or issues;
- (b) All defenses by the respondent; and
- (c) A statement of the nature and circumstances of counterclaims, if any, and the estimated value of such counterclaims.

Section 2.8. Mandatory Conciliation. Within five (5) days from receipt of the Answer, or after the lapse of thirty (30) days from the issuance of the Order to file Answer, if the

respondent fails to file an Answer, the arbitral tribunal shall send a notice to the parties setting the date, time, and place for the mandatory conciliation conference to discuss the possibility of entering into an amicable settlement or compromise agreement. During such conference, the parties shall set such number of hearings in order to reach a possible settlement. In case the parties opt to send their duly authorized representatives to the conciliation conference, said representatives should be equipped with the necessary authority to bind their principal in entering into such settlement agreement.

Section 2.9. Preliminary conference. Within three (3) months from the date of the conciliation conference and without the possibility of an amicable settlement, the arbitral tribunal shall issue a notice setting the date, time, and place for the preliminary conference to discuss the following:

- (a) The possibility of obtaining stipulations or admissions of facts;
- (b) The possibility of securing admissions as to the genuineness, existence, and due execution of documents;
- (c) The simplification of the issues;
- (d) The propriety of submitting the case for decision without hearing or based on documents only;
- (e) If the dispute involves factual issues, the names, and number of the parties' respective witnesses;
- (f) The order of the proceedings, schedule of hearing of witnesses until completion, and the timetable for the entire proceedings; and
- (g) Such other matters as may aid in the prompt disposition of the dispute.

Section 2.10. Effect of failure to appear at the mandatory conciliation or preliminary conference. The failure of the claimant to appear at the mandatory conciliation or preliminary conference shall be a ground for the dismissal of the action without prejudice. A similar failure on the part of the respondent shall terminate the conciliation and preliminary conference proceedings, and shall be a cause to allow the claimant to present his evidence *ex parte*.

Section 2.11. Preliminary Conference Brief. The parties shall file with the arbitral tribunal and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the preliminary conference, the parties' respective preliminary conference briefs which shall contain matters subject of the preliminary conference.

Failure to file a preliminary conference brief shall have the same effect as the failure to appear at the preliminary conference under Section 2.10.

Section 2.12. Preliminary Conference Order. The arbitral tribunal shall issue an order which shall recite in detail the matters taken up in the conference, the action taken

thereon, and the agreements or admissions made by the parties as to any of the matters considered. The order shall explicitly define and limit the issues to be resolved. The contents of the order shall control the subsequent course of the proceedings.

Section 2.13. Hearing. (a) A hearing will be conducted only if factual issues are brought out during the preliminary conference; otherwise, the case may be deemed submitted for resolution based on documents only.

- (a) The parties shall be given due notice of any hearing, including those requested for the purpose of inspection of goods, other property or documents. Witness statements submitted are subject to cross-examination by the other party.
- (b) All statements, documents or other information including those in electronic form supplied by one party to the arbitral tribunal through whatever medium, shall be communicated to the other party and by the arbitral tribunal to all the parties.
- (c) Hearings shall be scheduled in such a manner that will ensure a speedy disposition of the case.
- (d) Upon due notice to the parties signed by the Chairman of the arbitral tribunal, any one of the arbitrators may proceed to hear the case.

Section 2.14. Failure or Refusal to Participate in the Arbitral Proceedings. If for any reason the claimant fails or refuses to pursue its claim before the arbitral tribunal, the latter may *motu proprio* dismiss the case. If, however, the respondent fails or refuses to participate in the arbitration proceedings, the same shall continue notwithstanding the respondent's refusal to participate. In the latter case, evidence of the claimant shall be received *ex parte* and thereafter a resolution shall be issued by the arbitral tribunal subject to the approval of the Secretary of Justice.

RULE 3 – Conduct of the Proceedings

Section 3.1. Extent of Power of the Arbitral Tribunal. The arbitral tribunal shall decide only on issues and related matters as are submitted to them for adjudication.

Section 3.2. Control over Proceedings. The Chairman of the arbitral tribunal shall exercise complete control over all proceedings to ensure a speedy disposition of the disputes and cases submitted before it for resolution.

Section 3.3. Failure or Impossibility to Act. If an arbitrator becomes unable to perform his/her functions, a substitute arbitrator shall be appointed by the head of the adjudicating office.

Section 3.4. Place of Arbitration. The arbitration hearing shall be held at the adjudicating office or at such other place as may be agreed upon by the parties.

Section 3.5. Petition and Answer.

- (a) The parties may submit with their petition or answer all documents they consider to be relevant or may add a reference to the documents or other evidence they intend or undertake to submit.
- (b) Whenever a claim or defense is based upon a written instrument or document, the substance thereof shall be set forth in the petition or answer, and the original or certified true copy thereof shall be attached as an annex thereto.
- (c) Either party may amend or supplement its petition or answer during the course of the arbitral proceedings, unless the Arbitral Tribunal considers it inappropriate to allow such amendment or supplement having regard to the delay that may be caused to the proceedings in making it.

Section 3.6. Evidence.

- (a) The parties may offer such evidence in support of the defined issues.
- (b) In the marking of documentary exhibits, the claimant's documents shall be marked by the letter "C" followed by the sequential number (e.g. C-1, C-2, etc.) while respondent's documents shall be marked by the letter "R" followed by the sequential number (e.g. R-1, R-2, etc.). Common exhibits shall be by the letters "CR" followed by the sequential number (e.g. CR-1, CR-2, etc.).

Section 3.7. Filing and service by facsimile or any recognized electronic means and proof thereof. Filing and service of pleadings by facsimile or any recognized electronic transmission may be allowed by agreement of the parties and approved by the arbitral tribunal. Soft copies of pleadings or motions must be in PDF file and attached to the e-mail. Soft copies submitted by e-mail must be addressed to the e-mail address/es as stated in the original petition.

Section 3.8. Receipt of Written Communications.

- (a) Any written communication is deemed to have been received if it is delivered personally to the party's office address, or by any recognized electronic means approved by the arbitral tribunal; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the party's office address by registered letter, e-mail address, facsimile, or by any other recognized electronic means which provides a record of the attempt to deliver it.
- (b) Service of the papers may be made by delivering personally, or by registered mail, facsimile, or by any other recognized electronic means a copy to the office of the head of the agency or corporation, or by leaving it at the receiving section of the said office, or by any other recognized electronic means. Service may likewise be made to the counsel of the agency or corporation.
- (c) The communication is deemed to have been received on the day it is so delivered.

Section 3.9. Recording of Proceedings. Proceedings before the arbitral tribunal may be recorded by means of any audio or audio visual recording equipment such as, but not limited to, tape recorders and video cameras, or, if a stenographer is available, either through stenographic notes or minutes taken of the proceedings. All recordings on tapes, films, cassettes, or disks shall be done by the adjudicating office concerned and shall remain in its custody for safekeeping and eventual disposal after the resolution of the case.

Copies of such recording including transcripts and minutes of the proceedings shall be made available to the parties upon request and for a fee.

Section 3.10. Representation and Assistance. The parties may appear through their duly authorized representative or through their respective legal officers, as the case may be.

Rule 4 – The Compromise Agreement

Section 4.1. Settlement and compromise agreement. Where the parties agree to a full/partial compromise, the arbitral tribunal shall see to it that the written terms be immediately drafted with the concurrence of the parties or their counsels, if any. For this purpose, the arbitral tribunal shall provide legal assistance in the drafting of the compromise agreement.

The final compromise agreement shall be signed by the parties through their duly authorized representatives together with their respective counsels. The same shall be submitted to the head of the adjudicating office who shall submit the same for the approval of the Secretary of Justice.

Section 4.2. Effect of a Settlement. Where the parties to a conciliation has agreed to settle and put the settlement into writing, said settlement agreement shall have the force and effect of an arbitration resolution.

Section 4.3. Enforcement of Settlement Agreements. The procedure in enforcing settlement agreements shall be in accordance with Rule 6 on the Confirmation, Execution and Enforcement of these Uniform Rules.

Rule 5 – The Arbitration Resolution

Section 5.1. Submission of Memorandum. The arbitral tribunal shall require the parties to submit their respective Memoranda within thirty (30) days after the termination of the proceedings.

Section 5.2. Resolution. The arbitral tribunal, after evaluating the evidence presented by the parties, shall, within thirty (30) days from the submission of their respective memoranda, prepare a draft resolution stating clearly and distinctly the facts and the law on which it is based.

Section 5.3. Contents of the Resolution. The draft resolution shall state the issues involved, a brief statement and discussion of the facts, and the authority relied upon for the disposition of the issues. The draft resolution shall be made in writing and shall be signed by a majority of the members of the arbitral tribunal.

Section 5.4. Transmittal to the Secretary of Justice. In cases arbitrated by the OSG and the OGCC, the draft resolution, together with the records of the case, shall be transmitted to the Secretary of Justice for final action within ten (10) days from the signing of the draft resolution.

The Secretary of Justice shall either approve, modify, or reverse the resolution, and shall prepare a final resolution setting forth the issues, a brief statement and discussion of facts, and the legal authorities relied upon for the disposition of the issues. Said resolution signed by the Secretary of Justice is final and immediately executory. No writ of execution is necessary for its enforcement.

Section 5.5 Notification of the Resolution to Parties. The parties are not entitled to a copy of the resolution of the Tribunal submitted to the Secretary of Justice. However, the Secretary of Justice shall furnish the parties with copies of the final resolution.

Rule 6 – Confirmation, Execution and Enforcement

Section 6.1. When the resolution becomes final and binding. The resolution, as approved, modified, or reversed by the Secretary of Justice, shall be referred to as the final resolution. Said resolution is final and binding upon the parties and shall have the same force and effect of a final decision of a court of justice.

Section 6.2. Execution and Enforcement of the Resolution. A final resolution shall become immediately executory upon the issuance of the Secretary of Justice.

Section 6.3. Execution Pending Appeal. An appeal shall stay the execution of the resolution sought to be reviewed unless the Office of the President shall direct otherwise upon such terms as it may deem just and reasonable.

Section 6.4. Effect of Reversal of the Resolution. Where a resolution is partially or totally reversed on appeal, the Secretary of Justice may, *motu proprio* or on *ex parte* motion by a party, issue such order of restitution or reparation of damages as equity and justice may warrant under the circumstances.

Section 6.5. Motion for Reconsideration or New Trial. No motion for reconsideration or new trial shall be allowed under these Uniform Rules.

Rule 7 - Appeal

Section 7.1. Where to appeal. An appeal may be taken to and entertained by the Office of the President only in cases wherein the amount of the claim or value of the property exceeds One Million Pesos (Php 1,000,000.00).

Section 7.2. How to appeal. The appeal shall be governed by Administrative Order No. 22, series of 2011, "Prescribing rules and regulations governing appeals to the Office of the President of the Philippines", or any of its amendments.

RULE 8 – General Provisions

Section 8.1. Exclusion. These rules shall not apply to disputes involving the Congress, the Supreme Court, the Constitutional Commissions, and Local Government Units.

Section 8.2. Applicability of the Rules of Court. The Rules of Court shall not apply to the proceedings under the Uniform Rules, except by analogy or in a suppletory character, whenever practicable and convenient, and to make effective the authority vested in the adjudicating offices and the Arbitral Tribunal.

Section 8.3. Rules of Interpretation. (a) In interpreting this Uniform Rules, the arbitral tribunal shall have due regard to the policy of the law in favor of arbitration and the policy of the Executive Department to avoid litigation in court.

Where a provision of these Uniform Rules refers to a claim, it also applies to a counter-claim, and where it refers to a defense, it also applies to a defense to such counter-claim.

Section 8.4. Calculation of Periods of Time. In computing any period of time prescribed or allowed by these Uniform Rules, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the Arbitral Tribunal sits, the time shall not run until the next working day.

Should an act be done which effectively interrupts the running of the period, the allowable period after such interruption shall start to run on the day after notice of the cessation of the cause thereof.

The day of the act that caused the interruption shall be excluded in the computation of the period.

Section 8.5. Waiver of Right to Object. Any party who knows that a material provision of these Uniform Rules has not been complied with, yet proceeds with the arbitration without stating the objections to such non-compliance in a timely manner, shall be deemed to have waived the right to object.

Section 8.6. Recourse to Courts. During the pendency of the proceedings before the arbitral tribunal, the parties are not allowed to seek court intervention.

Section 8.7. Summary in nature. Proceedings under these Uniform Rules shall be summary in nature and the adjudicating office shall act on the substantial merits of the case without being bound by the technical rules of procedure.

Section 8.8. Confidentiality of Arbitration Proceedings. The arbitration proceedings, including the records, evidence, and the draft or final resolution and other confidential information, shall be considered privileged and confidential and shall not be published except upon consent of the parties.

Rule 9 – Arbitration Expense

Section 9.1 Arbitration Expense. No filing fees are required under these Rules, however, all necessary and incidental expenses incurred in the proceedings shall be assessed against all or some of the parties thereto, or against one of them, if the facts and circumstances so warrant.

Rule 10 – Final Provisions

Section 10.1. Prospective Application. Any provision/s of these Uniform Rules that has/have been amended, altered or modified shall only have prospective application.

Section 10.2. Separability Clause. If, for any reason, any part of this Uniform Rules shall be declared unconstitutional or invalid, all other parts or provisions hereof which are not affected shall continue to be in full force and effect.

Section 10.3. Repealing Clause. The following rules, circulars, memoranda, orders and issuances, are hereby repealed, amended or modified accordingly, insofar as they may be inconsistent with these Uniform Rules.

- (a) Rules on Alternative Dispute Resolution (ADR) For Disputes Between National Government Agencies dated March 22, 2010 promulgated by the Office of the Solicitor General;
- (b) Rules 10, 11, 12 and 13 of the Rules Governing The Exercise By The Office Of The Government Corporate Counsel (OGCC) Of Its Authority, Duties And Powers As Principal Law Office Of All Government Owned Or Controlled Corporations, otherwise known as the “OGCC Rules and Regulations”;
- (c) Administrative Order No. 121 dated July 25, 1973; and
- (d) Such other rules, circulars, memoranda, orders and other issuances, insofar as they may be inconsistent with this Uniform Rules.

Section 10.4. Effectivity. These Uniform Rules shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation, and copy hereof shall be furnished the Office of the National Administrative Register.

26 September 2015.

(Sgd.) LEILA M. DELIMA

Secretary