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REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 8187 FOR THE PRIVATE SECTOR

Pursuant to Republic Act No. 8187 entitled, "An Act Granting Paternity Leave of Seven (7) Days With Full Pay to All Married Male Employees in the Private and Public Sectors For the First Four (4) Deliveries of the Legitimate Spouse With Whom He is Cohabiting And For Other Purposes," the following Revised Rules and Regulations are hereby issued:

SECTION 1. Definition of Terms.— As used in these Rules, the following terms shall have the meaning as indicated hereunder:

a. "Paternity leave" refers to the leave benefits granted to a married male employee allowing him not to report for work for seven (7) days but continues to earn the compensation therefor, on the condition that his spouse has delivered a child or suffered a miscarriage for the purpose of lending support to his wife during her period of recovery and/or in nursing of the newly born child.

b. "Employee" refers to any person who performs services for another and receives compensation therefor, provided an employer-employee relationship exists between them.

c. "Delivery" refers to childbirth or miscarriage.

d. "Spouse" refers to the lawful wife. For this purpose, lawful wife refers to a woman who is legally married to the male employee concerned.

e. "Cohabiting" refers to the obligation of the husband and wife to live together.

SECTION 2. Coverage.— Every married male employee in the private sector shall be entitled to paternity leave benefits of seven (7) days with full pay for the first four deliveries by his lawful spouse under such terms and conditions as hereinafter provided.

The rules on paternity leave of employees in the public sector shall be promulgated by the Civil Service Commission.

SECTION 3. Conditions to entitlement of paternity leave benefits. — A married male employee shall be entitled to paternity benefits provided that:

a. he is an employee at the time of delivery of his child;

b. he is cohabiting with his spouse at the time she gives birth or suffers a miscarriage. prcd

c. he has applied for paternity leave in accordance with Section 4 hereof; and

d. his wife has given birth or suffered a miscarriage.

SECTION 4. Application for leave. — The married male employees shall apply for paternity leave with his employer within a reasonable period of time from the expected date of delivery by the pregnant spouse, or within such period as may be provided by company rules and regulations or by collective bargaining agreement, provided that prior application for leave shall not be required in case of miscarriage.

SECTION 5. Availment. — Paternity leave benefits shall be granted to the qualified employee after the delivery by his wife, without prejudice to an employer allowing an employee to avail of the benefit before or during the delivery; provided, that the total number of days shall not exceed seven (7) days for each delivery.

SECTION 6. Benefits. — The employee is entitled to his full pay, consisting of basic salary, for the seven (7) days during which he is allowed not to report for work, provided, that his pay shall not be less than the mandated minimum wage.

SECTION 7. Non-commutation of benefits. — In the event that paternity leave benefit is not availed of, said leave shall not be convertible to cash.

SECTION 8. Non-diminution clause. — Nothing in these Rules shall be construed to reduce or replace any existing benefits of any kind granted under existing laws, decrees, executive orders, or any contract, agreement or policy between employer and employee.

SECTION 9. Crediting of existing benefits. — Where a male employee is already enjoying the paternity leave benefits by reason of contract, company policy or collective bargaining agreement, the following rules shall apply:

a. If the existing paternity leave benefit is greater than the benefit herein provided, the greater benefit shall prevail;

b. If the existing paternity leave is less than that provided herein, such existing benefit shall be adjusted to the extent of the difference.

However, where a contract, company policy or collective bargaining agreement provides for an emergency or contingency leave without specific provisions on paternity leave, the paternity leave as herein provided shall apply in full.

SECTION 10. Penalty. — Any person, corporation, trust, firm, partnership, association or entity found violating any provision of these Rules shall be penalized by a fine not exceeding twenty five thousand pesos (P25,000) or imprisonment of not less than thirty (30) days nor more than six (6) months.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on the entity's responsible officers, including but not limited to, the president, vice president, chief executive officer, general manager, managing director or partner directly responsible therefor.

SECTION 11. Transitory Provision. — All qualified employees whose spouse delivered a child or suffered a miscarriage on or after July 5, 1996 are entitled to paternity leave, subject to the conditions prescribed in Section 3, paragraphs (a) and (b).

SECTION 12. Repealing Clause. — All laws, ordinances, rules, regulations, issuances, or parts thereof which are inconsistent with these Rules are deemed repealed or modified accordingly.

SECTION 13. Separability Clause. — If any provision or portion of these Rules is declared void or unconstitutional, the remaining portions or provisions hereof shall continue to be valid and effective.

SECTION 14. Effectivity. — These Revised Rules shall take effect on 05 July 1996.

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