



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila



DEPARTMENT ORDER NO. 170
Series of 2017

**IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 10911 OTHERWISE KNOWN AS
THE “ANTI-AGE DISCRIMINATION IN EMPLOYMENT ACT”**

Pursuant to Section 9 of Republic Act No. 10911 or the “Anti-Age Discrimination in Employment Act”, the following implementing rules and regulations are hereby issued:

Section 1. Declaration of Policies. – The State shall promote equal opportunities in employment for everyone. To this end, it shall be the policy of the State to:

- (a) Promote employment of individuals on the basis of their abilities, knowledge, skills and qualifications rather than their age.
- (b) Prohibit arbitrary age limitations in employment.
- (c) Promote the rights of all employees and workers, regardless of age, to be treated equally in terms of compensation, benefits, promotion, training, and other employment opportunities.

Section 2. Definition of Terms. – As used in this Rules, the following terms shall mean:

- (a) *Employee* refers to a person who performs professional, managerial or administrative work and is paid salaries by the employer as compensation for service rendered;
- (b) *Employer* refers to any person, natural or juridical, employing the services of an employee or worker and shall include the government and all its branches, subdivisions and instrumentalities, all government-owned and controlled corporations, and government financial institutions, as well as nonprofit private institutions or organizations;
- (c) *Job applicant* refers to a person who applies for employment;
- (d) *Labor contractor* refers to any natural or juridical person or an agent of that person who regularly undertakes, with or without compensation, the procurement of employees or workers for an employer, of the procurement of employees or workers opportunities to work for an employer. It includes private employment agencies (PEAs);
- (e) *Labor organization* refers to any union or association of employees or workers which exists in whole or in part for the purpose of collective bargaining or for dealing with employers concerning terms and conditions of employment;
- (f) *Private Employment Agency* refers to any person, partnership or corporation engaged in the recruitment and placement of workers for local employment;
- (g) *Publisher* refers to any person or juridical entity engaged in the printing of information on paper and its distribution, buying or securing of airtime or space on television, radio or the internet, and other similar media; and

(h) *Worker* refers to a person who performs manual labor involving skilled or unskilled work, and is paid wages by the employer as compensation for services rendered.

Section 3. Coverage. – The provisions of this Rules shall apply to all employers, publishers, labor contractors or subcontractors, and labor organizations, whether or not registered.

Section 4. Prohibition of Discrimination in Employment on Account of Age. –

(a) It shall be unlawful for an employer to:

(1) Print or publish, or cause to be printed or published, in any form of media, including the internet, any notice of advertisement relating to employment suggesting preferences, limitations, specifications and discrimination based on age;

(2) Require the declaration of age or birth date during the application process;

(3) Decline any employment application because of the individual's age;

(4) Discriminate against an individual in terms of compensation, terms and conditions or privileges of employment on account of such individual's age;

(5) Deny any employee's or worker's promotion or opportunity for training because of age;

(6) Forcibly lay off an employee or worker because of old age; or

(7) Impose early retirement on the basis of such employee's or worker's age.

(b) It shall be unlawful for a labor contractor or subcontractor, if any, to refuse to refer for employment or otherwise discriminate against any individual because of such person's age.

(c) It shall be unlawful for a labor organization to:

(1) Deny membership to any individual because of such individual's age;

(2) Exclude from its membership any individual because of such individual's age; or

(3) Cause or attempt to cause an employer to discriminate against an individual in violation of this Rules.

(d) It shall be unlawful for a publisher to print or publish any notice of advertisement relating to employment suggesting preferences, limitations, specifications, and discrimination based on age.

Section 5. Exceptions. – It shall be lawful for an employer to set age limitations in employment if:

(a) Age is a *bona fide* occupational qualification reasonably necessary in the normal operation of a particular business or where the differentiation is based on reasonable factors other than age;

(b) The intent is to observe the terms of *bona fide* seniority system that is not intended to evade the purpose of this Rules.

(c) The intent is to observe the terms of a *bona fide* employee retirement or a voluntary early retirement plan consistent with the purpose of this Rules. *Provided*, That such retirement or voluntary retirement plan is in accordance with the Labor Code, as renumbered, and other related laws; or

(d) The action is duly certified by the Secretary of Labor and Employment after consultation with the stakeholders in accordance with the purpose of this Rules.

For purposes of the foregoing exceptions, an employer who invokes the qualifications as provided herein, shall submit a report prior to its implementation to the DOLE Regional Office which has jurisdiction over the workplace. The submission of the report shall be a presumption that the age limitation is in accordance with this Rules unless proven otherwise by the court.

Failure to submit said report shall give rise to the presumption that the employer is not allowed to set age limitation.

Section 6. Employment Age of Children. – The age requirement in the employment of children shall be governed by Republic Act No. 9231 and its Implementing Rules and Regulations, Article 138 of the Labor Code as renumbered, and other applicable laws, rules and regulations.

Upon hiring, the employer may require the child or the guardian to show proof of the child's age for purposes of compliance with minimum employable age under existing laws.

Section 7. Education and Research Programs. – The Department of Labor and Employment (DOLE) shall:

(a) Conduct studies and researches on minimizing impediments to the employment of older persons, and furnish such information to employers, labor groups, and the general public; and

(b) Promote programs, in coordination with public and private agencies that will further enhance the knowledge and skills of every individual regardless of age.

Section 8. Penalty. – Any violation of Republic Act No. 10911 shall be punished with a fine of not less than fifty thousand pesos (₱50,000.00) but not more than five hundred thousand pesos (₱500,000.00), or imprisonment of not less than three (3) months but not more than two (2) years, or both, at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other entity, the penalty shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership or association or entity.

Section 9. Effects on Existing CBAs, Employment Contracts and Company Policies. – All existing individual and/or collective agreements, employment contracts and company policies prior to the effectivity of this law and this IRR shall be respected as agreed upon by the parties.

Section 10. Separability Clause. – If any provision of this Rules is declared unconstitutional, the remaining provisions not affected shall remain in full force and effect.

Section 11. Repealing Clause. – All rules and regulations, policy issuances or orders contrary to or inconsistent with this Rules are hereby repealed, amended or modified accordingly.

Section 12. Effectivity. – This Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines, February 02, 2017.


SILVESTRE H. BELLO III
Secretary

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