

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
and
DEPARTMENT OF FINANCE
Manila
RULES IMPLEMENTING REPUBLIC ACT NO. 6971

Pursuant to the authority granted to the Secretary of Labor and Employment and the Secretary of Finance under Section 10 of Republic Act No. 6971, otherwise known as 'the "Productivity Incentives Act of 1990", the following rules and regulations are hereby promulgated and Issued for the guidance of all concerned.

Rule I
PRELIMINARY PROVISIONS

Section 1. Title. These Rules shall be known as the Rules Implementing RA No. 6971.

Section 2. Construction. These Rules shall be liberally construed to carry out the objectives of RA 6971 to encourage higher levels of productivity, maintain industrial peace and harmony and promote the principle of shared responsibility In the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of business enterprises to reasonable returns on investments and to expansion and growth, and accordingly to provide corresponding incentives to both labor and capital for undertaking voluntary programs to ensure greater sharing by the workers In the fruits of their labor.

Section 3. Definition of Terms. As used in these Rules:

- (a) "Act" refers to Republic Act No. 6971;
- (b) "DOLE" refers to the Department of Labor and Employment;
- (c) "DOF" refers to the Department of Finance;
- (d) "NWPC" refers to the National Wages and Productivity' Commission;
- (e) "RTWPB" refers to the Regional Tripartite Wages and Productivity Board;
- (f) "NCMB" refers to the National Conciliation and Mediation Board;

- (g) "NMYC" refers to the National Manpower and Youth Council;
- (h) "RMDO" refers to the Regional Manpower Development Office under the NMYC;
- (i) "BIR" refers to the Bureau of Internal Revenue;
- (j) "Business Enterprise" refers to industrial, agricultural, or agro-industrial establishments engaged in the production, manufacturing, processing, repacking, or assembly of goods, including service-oriented enterprises;
- (k) "Service-oriented Enterprises" refers to establishments other than agricultural, industrial and agro-industrial establishments;
- (l) "Managerial Employee" refers to an employee who is vested with power or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees;
- (m) "Supervisory Employee" refers to an employee who, in the interest of the employer, effectively recommends managerial actions if the exercise of such authority is not merely routine or clerical in nature but requires the use of independent judgement;
- (n) "Rank-and-file Employee" refers to an employee who does not fall under the definition of managerial and supervisory employee;
- (o) "Labor-Management Committee" refers to a cooperative/negotiating body in a business enterprise composed of representatives of labor and management created to establish a productivity incentives program, and to settle disputes arising therefrom in accordance with Section 9 of the Act;
- (p) "Productivity" refers to the relation of output to input in physical and/or real monetary terms;
- (q) "Output" refers to products and services expressed in physical and/or real money terms;
- (r) "Input" refers to resources such as labor, raw materials, equipment, capital, and energy used to produce output and expressed in physical and/or real monetary terms;

- (s) "Productivity Incentives Program" refers to a formal agreement voluntarily established by the labor-management committee containing a productivity improvement program that will promote gainful employment, improve working conditions, maintain industrial peace and result in increased productivity, including cost savings, as well as productivity gainsharing program whereby the employees are granted productivity bonuses;
- (t) "Bonuses" refers to cash and/or non-cash incentives given to employees, as agreed by the parties, under the Productivity Incentives Program;
- (u) "Training" refers to an organized activity primarily designed for the systematic development of attitude, knowledge skill, and behavior pattern required for the adequate performance of given job or task conducted by a juridical/natural person or persons;
- (v) "Special Studies" refers to relevant and specialized skills trainings acquired abroad or locally in order to introduce new skills identified as necessary by the NMYC;
- (w) "Voluntary Arbitration" refers to the mode of settling labor- management disputes by which the parties select a competent, trained and impartial person who shall decide on the merits of the case and whose decision is final, executory and unappeasable and
- (x) "Voluntary Arbitrator" refers to any person accredited by the NCMB as such, or any person named or designated in the collective bargaining agreement by the parties to act as their voluntary arbitrator, or one chosen, with or without the assistance of the NCMB, pursuant to a selection procedure agreed upon in the collective bargaining agreement or any official that may be authorized by the DOLE Secretary to act as voluntary arbitrator upon, the written request and agreement of the parties to a dispute arising from the productivity incentives agreement.

Rule II

COVERAGE

Section 1. Coverage. These Rules shall apply to:

- (a) All business enterprises with or without existing duly recognized or certified labor organizations, including government-owned and controlled corporations performing proprietary functions.

- (b) All employees and workers including casual, regular, rank-and-file, supervisory and managerial employees.

Rule III

LABOR-MANAGEMENT COMMITTEE

Section 1. Organization. A business enterprise and/or its employees may move the formation of a labor-management committee to establish a productivity incentives program in the enterprise. At the request of any party, the NCMB or its appropriate Regional Branch or the third person chosen and agreed upon by both parties shall provide assistance to enable parties to form a labor-management Committee.

Section 2. Composition and Selection.

- (a) Composition of the Labor-management committee.

The labor-management committee shall be composed of an equal number of representatives from the management and rank-and-file employees.

- (b) Selection of labor representatives.

In a business enterprise with duly recognized or certified labor organizations, the labor representatives to the labor-management committee shall be those designated by the collective bargaining agent(s) of the bargaining unit(s). In a business enterprise without duly recognized or certified labor organizations, the labor representatives shall be elected by at least a majority of all rank-and-file employees who have rendered a minimum of six (6) months continuous service.

Section 3. Voting Rights. Both management and labor shall have equal voting rights.

Section 4. Effect on Existing Labor-Management Committee. A business enterprise with existing labor-management committees established for other purposes may form a new labor-management committee or use the existing labor-management committee to establish a productivity incentives program; provided that the conditions stated in Sections 2 & 3 hereof and Section 1, Rule VII of these Rules are met.

Rule IV

PRODUCTIVITY INCENTIVES PROGRAM

Section 1. Objectives and Scope. The productivity incentives program shall clearly state its immediate and long term objectives and the effects of such on the employees' welfare and

the business enterprise as a whole. It shall embody, in general terms, an implementation plan and a summary of strategies to be undertaken to attain such objectives.

The productivity incentives program shall specify the organizational units and functional areas that will be covered by the program.

Section 2. Components. The productivity incentives program shall be composed of the following:

(a) Productivity Improvement Program.

The productivity improvement program shall include any intervention or scientific/systematic process designed to increase productivity of the various factor inputs such as materials, labor, capital, and energy. The program may be geared towards improved human resource management and effective and efficient use of other resources, e.g., waste reduction, energy conservation and maintenance improvement.

(b) Productivity Gainsharing Program.

The Productivity Gainsharing Program shall specify an incentives system whereby employees are given an equitable share from gains brought about by improved productivity. Business enterprises with existing productivity gainsharing programs may convert the same into a productivity incentives program provided the conditions contained herein are met.

(c) Manpower Trainings and Special Studies.

Any manpower training and special study proposed by the labor-management committee aimed at developing skills of rank-and-file employees may be included in the productivity incentives program. For purposes of accreditation, such training and studies shall specify the following:

1. Objective/s of training program
2. Type of training
3. Training schedule
4. Program of activities
5. Course content or syllabus

6. Budgetary allocation and cost estimates for any or a combination of the following cost items:

- a. Training materials, books and supplies;
- b. Cost of raw materials and non-depreciable tools to be consumed or used during the training;
- c. Honoraria of trainers, and training coordinators;
- d. Traveling expenses of trainers, coordinators, trainees and training staff while away from home on account of the training program;
- e. Basic salary of trainees and training staff while away from home on account of the training program;
- f. Tuition, registration or similar fees to be paid to a training institution;
- g. Depreciation of training equipment, facilities and other fixed assets to be used in the training program;
- h. Other cost items such as snacks, rental of venue, rental of equipment, working clothes for trainees and instructors, and certificates of training, but not to exceed 5% of the total training cost.

7. Evaluation scheme for the proposed training

Section 3. Contents. The productivity incentives program shall contain the following:

(a) Methods and Formulas to Measure Productivity.

The productivity measures indicate the total and/or partial relation between outputs and inputs expressed in physical and/or monetary terms. Some of the generally accepted measures of productivity which may be adopted by the labor-management committee to determine productivity gains and bonuses are:

1) Value of Production Approach.

$$\text{Total Factor Productivity} = \frac{\text{Total Value of Output}}{\text{Total Cost}}$$

$$\text{Partial Productivity} = \frac{\text{Total Value of Output}}{\text{Cost of Specific Factor Input}}$$

where :

Total value of output = quantity x selling price

2) Value-Added Approach

Total Value-Added Total Value Added
Productivity = Company Inputs

where:

Total value-added = Total value of output -
intermediate inputs;

Intermediate Inputs = raw materials consumed, energy costs and other inputs such as purchases and services supplied by outside sources; and

Company inputs = those contributed by the company other than intermediate inputs.

(b) Factors in Determining Productivity Bonuses.

This refers to the factors to be considered in measuring productivity gains as identified by the labor-management committee. These factors as well as the methods/formulas to measure productivity agreed upon by both parties shall form the bases in determining the amount of the productivity bonus for distribution.

Manner of Sharing Productivity Bonuses.

The list of employees entitled to productivity bonuses shall be drawn up, including the method of sharing such bonuses, the percentage share of each employee and the period of distribution of bonuses. Said list shall be updated from time to time to reflect changes in employment status like separation, retirement, resignation, promotion and hiring of new personnel.

Names and Positions of the Labor-Management Committee Representatives.

The names of the representatives to the labor-management committee, their positions in the company, and their term of office as labor-management committee representatives shall be specified.

(c) Names of Voluntary Arbitrators or Panel of Voluntary Arbitrators.

The name of the voluntary arbitrator or panel of voluntary arbitrators chosen and agreed upon by the labor-management committee shall be included in the productivity incentives program.

(d) Other Terms and Conditions of the Productivity Incentives

Other terms and conditions of the program shall be specified, including agreements on the renewal of the productivity incentives program, the number of labor and management representatives, the process of electing representatives and substitutes by both parties, the provision in case of declining productivity, and other related terms.

Section 4. Ratification. The productivity incentives program shall be ratified in writing by at least a majority of covered employees who have rendered a minimum of six (6) months continuous service, within sixty (60) days from the time signing of the agreement by the labor-management committee.

Section 5. Submission to RTWPB. The ratified productivity incentives program shall be submitted in three (3) copies to the appropriate RTWPB together with proof of ratification, e.g., an affidavit stating the number of covered employees and the number of votes cast in favor of the program. The RTWPB shall review said program within (60) calendar days from receipt thereof to determine compliance with these Rules. Where manpower trainings and special studies are included in the program, same shall be reviewed appropriate RMDO.

Section 6. Notification of BIR. A business enterprise shall submit a copy of the productivity incentives program to the BIR for information and record purposes.

Section 7. Amendments to the Productivity Incentives Programs. Any amendment to the productivity incentives program shall be deemed valid provided the requirements set in Sections 4 to 6 hereof are met.

Section 8. Technical Support in the Development of Productivity Incentives Program. I At the request of any party, the NWPC or its appropriate RTWPB shall provide the necessary studies, technical information and assistance, and expert advice to enable the parties to conclude productivity agreements.

Rule V

PRODUCTIVITY BONUSES

Section 1. Productivity Bonuses. Productivity bonuses granted to labor under the productivity incentives program may be in cash and/or non-cash incentives, as agreed by both parties, and shall not be less than half of the percentage increase in the productivity of the business enterprise over and above the average for the preceding three (3) consecutive years; provided, that for enterprises that have been in operation for less than three (3) years, the labor management committee therein may agree on other base periods for determining productivity increases.

Section 2. Frequency of Granting Productivity Bonuses. The productivity bonuses over and above the existing bonuses granted by the business enterprise and by law shall be given to employees not later than every six(6) months from the start of the productivity incentives program; provided that said bonuses shall not be deemed as salary increases due to the employees and workers; provided further that upon agreement by both parties, payment of bonuses may be deferred, but not longer than one year from date payment of said bonuses are due.

Rule VI

TAX INCENTIVES

Section 1. Rate of Deductions.

- a. (a) Subject to the provisions of Section 7 of the Act and Rule IV hereof, a business enterprise which adopts a productivity incentives program, duly agreed upon by the labor-management committee, shall be granted a special deduction from the gross income equivalent to fifty percent (50%) of the total productivity bonuses given to employees under the program in addition to the total allowable ordinary and necessary business deductions for said bonuses as provided for under the National Internal Revenue Code, as amended.
- b. (b) A business enterprise providing manpower training and special studies to rank-and-file employees as accredited by the RMDO may avail of the special deduction from gross income equivalent to fifty (50%) percent of the total grants for local trainings and special studies given to employees under the program in addition to the allowable ordinary and necessary business deductions, for said grants as provided for under the National Revenue Code, as amended.

- c. (c) For business enterprises deriving income other than from within the Philippines, which grant manpower training abroad to rank-and-file employees, the related expense incurred in relation thereto, shall not be deducted in full but shall be determined on a ratable basis in accordance with Revenue Regulations No. 16-86 implementing the National Internal Revenue Code, as amended; provided that such qualifies as ordinary and necessary expenses.

Section 2. Period Considered for Tax Deduction. The deductions provided for in the Act shall be taken for the taxable year in which the productivity bonus has been "paid or accrued" or "paid or incurred" dependent upon the method of accounting upon the basis of which the income is computed, unless in order to clearly reflect the income, the deductions should be taken as of a different period as provided for under Section 39 of the National Internal Revenue Code, as amended.

Section 3. Eligibility of Tax Incentives on Training Grants. Within fifteen (15) calendar days after completion of the training program and/or special studies, the business enterprise shall submit to the appropriate RMDO a post-training report stating whether the objectives of the training program have been adequately met, plus the official receipts of training expenses. Upon submission of the post-training report by the business enterprise, the RMDO, within thirty (30) calendar days shall conduct a post-training evaluation to determine the acquisition of appropriate skills, knowledge and behavior and shall issue to the business enterprise the necessary Certificate of Tax Eligibility.

Section 4. Requirements for Granting Tax Incentives. The tax deductions stipulated in the Act may be availed of by the business enterprise upon filing the quarterly/final income tax return accompanied with the pertinent supporting documents.

Section 5. Effectivity of Tax Incentives. The special deductions from gross income provided for herein shall be allowed starting the next taxable year after the effectivity of the Act.

Rule VII

DISPUTES AND GRIEVANCES

Section 1. Resolution

- a. Whenever disputes, grievances or other matters arise from the interpretation and implementation of the program as ratified by the parties, the labor-management committee shall meet to resolve the dispute.

- b. The labor-management committee may seek the assistance of the NCMB or its appropriate Regional Branch for such purpose.
- c. Any dispute which remains unresolved within twenty (20) calendar days from the time of the submission to the labor-management committee shall be submitted for voluntary arbitration in line with the pertinent provisions of the Labor Code, as amended.

Rule VIII

GENERAL PROVISIONS

Section 1. Non-Diminution of Benefits. Nothing in these Rules shall be construed to diminish or reduce any benefits and other privileges enjoyed by the workers under existing laws, decrees, executive orders, company policies or practices or any agreement or contract between the employer and the employees.

Section 2. Suspension of Benefits.

- a. Any, strike or lockout from arising from any violation of the productivity incentives program shall suspend the effectivity thereof pending settlement of such strike or lockout; provided the business enterprise shall not be deemed to have forfeited any tax incentives accrued prior to the date of occurrence of such strike or lockout and the workers shall not be required to reimburse the productivity bonuses already granted to them under the productivity Incentives program.
- b. Bonuses which already accrued before the strike or lockout shall be paid the workers within six (6) months from their accrual.

Section 3. Effect of Productivity Incentives Program Collective on Bargaining Agreements.

- a. The productivity agreements reached by the parties as provided in the Act shall supplement existing collective bargaining agreements.
- b. If, during the existence of the productivity incentives program or agreement, the employees will join or form a union, such program or agreement may, in addition the terms and conditions agreed upon by labor and management, be integrated in the collective bargaining agreement that may be catered into between them.

Section 4. Penalty. Any person wh6 will make any fraudulent claim under the Act, regardless of whether or not a tax incentive has been granted, shall upon conviction be

punished. with imprisonment of not less than six (6) months but not more than one (1) year or a fine of not less than two thousand pesos (P2,000) but not more than six thousand pesos (P6,000), or both, at the discretion of the Court. Such act may also be penalized in accordance with the governing provisions under Title X: Statutory Offenses and Penalties of the National Internal Revenue Code, as amended, without prejudice, to prosecution for any other acts punishable under existing laws.

In case of partnerships, or corporations, the penalty shall be imposed upon the officers or employees who knowingly approved, authorized or ratified the filing of the fraudulent claim, and other persons responsible therefore.

Section 5. Separability Clause. If any provision of the Act and these Rules is held invalid or unconstitutional, any other provision not so affected shall continue to be valid and effective.

Section 6. Repealing Clause. Any law presidential decree, executive order, letter of instruction, and its rules and regulations, or any part thereof, which is inconsistent with any of the provisions of the Act and these Rules is hereby repealed or amended accordingly.

Section 7. Effectivity Clause. These Rules shall take effect upon publication in a national newspaper of general circulation.

Done in the City of Manila, Republic of the Philippines, this 4th day of June, 1991.

(SGD.)

RUBEN D. TORRES

Secretary

Department of Labor and Employment

(SGD.)

JESUS P. ESTANISLAO

Secretary

Department of Finance