Legal finesse
NEWSLETTER OF FORTUN NARVASA & SALAZAR
FORTUN NARVASA & SALAZAR
www.fnslaw.com.ph

LABOR LAW UPDATE

NOVEMBER 2013

LABOR DEPARTMENT LISTS "INDUSTRIES INDIPENSABLE TO NATIONAL INTEREST"

On October 21, 2013, the Department of Labor and Employment issued Department Order (DO) No. 40-H-13, which amends DO 40-G-03, Series of 2010, by specifying the "industries indispensable to the national interest" and modifying the procedure for resolution of labor disputes, which causes or is likely to cause strike or lockout, involving workers and employers from said industries.

Ordinarily, when there is a potential strike or lockout, the labor union or the employer are required to notify the National Conciliation and Mediation Board about the pending dispute. Article 263(g) of the Labor Code vests the Secretary of Labor power to assume jurisdiction over a labor dispute, when in his opinion, it involves an industry indispensable to national interest. Such discretionary authority to determine whether an industry is indispensable to national interest is, however, not expressly stated in IN THE Labor Code nor in Section 15 of DO 40-G-03.

Section 16 of DO 40-H-13 now enumerates the industries that are indispensable to national interest, thus: (a) hospital sector, (b) electric power industry, (c) water supplies services, to exclude small water supply services such as bottling and refilling stations, (d) air traffic control, and (e) such other industries, as may be recommended by the National Tripartite Industrial Peace Council (NTIPC).

This new section qualifies Section 15 by restricting the application of the provisions of Article 263(g) of the Labor Code to labor disputes involving workers and employers from the industries specified. The list is not exhaustive as the NTIPC may recommend other industries, which it deems indispensable to the national interest.

This new provision not only clarifies for the workers and employers, who may request intervention of the Secretary of Labor, but also tempers the latter's discretionary power in deciding which cases to take on.

Nothing in Section 16, however, diminishes the power of the President of the Philippines to determine the industries that are indispensable to national interest, and from intervening at any time and assuming jurisdiction over any such labor dispute in order to settle or terminate the same.

The parties may also agree at any time to submit the dispute to the Secretary of Labor or his/her duly authorized representative as Voluntary Arbitrator or to a duly accredited Voluntary Arbitrator or to a panel of Voluntary Arbitrators.

On the other hand, Section 17 of DO 40-G-03 which has been renumbered as Section 18, directs the conduct of a preliminary conference or hearing, within five (5) days from the issuance of

(Continued to next page.)

Princess Ann T. de Jesus
(ptdejesus@fnslaw.com.ph)

Labor Law
Practice Group
Key Lawyers:

Gregorio Y. Narvasa II
Walter Robin C. Go
Jose Lemuel S. Arenas
Maria Kristile Y. Lozada
Lou Bryan R. Macabodbod

an assumption or certification order.

Section 18 makes a conference mandatory before judgment is rendered by the National Labor Relations Commission (NLRC), or the voluntary arbitrator or panel of voluntary arbitrators, as the case may be. This affords the parties a fresh opportunity to thresh out the issues raised in the petition and provides a further avenue for settlement.

A copy of DO 40-H-13 may be downloaded here.
LF@November 15, 2012