

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

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**DEPARTMENT ORDER NO. 119-12**  
**Series of 2012**

**RULES IMPLEMENTING REPUBLIC ACT NO. 10151**

Pursuant to Section 7 of Republic Act No. 10151 entitled "An Act Allowing the Employment of Night Workers Thereby Repealing Articles 130 and 131 of Presidential Decree Number Four Hundred Forty-Two, as amended, otherwise known as the Labor Code of the Philippines," the following Rules are hereby issued and shall form part of Book III of the Omnibus Rules Implementing the Labor Code, to ensure the protection, safety and welfare of night workers:

**RULE XV**  
**EMPLOYMENT OF NIGHT WORKERS**

**Section 1. Coverage.** – This Rule shall apply to all persons who shall be employed or permitted or suffered to work at night, except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.

**Section 2. Definition.** – As used herein, "night worker" means any employed person whose work covers the period from 10 o'clock in the evening to 6 o'clock the following morning provided that the worker performs no less than seven (7) consecutive hours of work.

**Section 3. Health assessment.** – At their request, workers shall have the right to undergo a health assessment without charge and to receive advice on how to reduce or avoid health problems associated with their work:

- (a) Before taking up an assignment as a night worker;
- (b) At regular intervals during such an assignment;
- (c) If they experience health problems during such an assignment.

With the exception of a finding of unfitness for night work, the findings of such assessments shall be confidential and shall not be used to their detriment, subject however to applicable company policies.

**Section 4. *Mandatory facilities.*** – Mandatory facilities shall be made available for workers performing night work which include the following:

- (a) Suitable first-aid and emergency facilities as provided for under Rule 1960 (Occupational Health Services) of the Occupational Safety and Health Standards (OSHS);
- (b) Lactation station in required companies pursuant to Republic Act No. 10028 (The Expanded Breastfeeding Promotion Act of 2009);
- (c) Separate toilet facilities for men and women;
- (d) Facility for eating with potable drinking water; and
- (e) Facilities for transportation and/or properly ventilated temporary sleeping or resting quarters, separate for male and female workers, shall be provided except where any of the following circumstances is present:
  - i. Where there is an existing company guideline, practice or policy, collective bargaining agreement (CBA) or any similar agreement between management and workers providing for an equivalent or superior benefit; or
  - ii. Where the start or end of the night work does not fall within 12 midnight to 5 o'clock in the morning; or
  - iii. Where the workplace is located in an area that is accessible twenty-four (24) hours to public transportation;
  - iv. Where the number of employees does not exceed a specified number as may be provided for by the Secretary of Labor and Employment in subsequent issuances.

**Section 5. *Transfer.*** – Night workers who are certified by competent physician, as unfit to render night work, due to health reasons, shall be transferred to a job for which they are fit to work whenever practicable. The transfer of the employee must be to a similar or equivalent position and in good faith.

If such transfer is not practicable or the workers are unable to render night work for a continuous period of not less than six (6) months upon the certification of a competent public health authority, these workers shall be granted the same company benefits as other workers who are unable to work due to illness.

A night worker certified as temporarily unfit for night work for a period of less than six (6) months shall be given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for health reasons.

**Section 6. *Alternative measures to night work for pregnant and nursing employees.*** – Employers shall ensure that measures shall be undertaken to provide an alternative to night work for pregnant and nursing employees who would otherwise be called upon to perform such work. Such measures may include the transfer to day work, where it is possible, as well as the provision of social security benefits or an extension of maternity leave.

(a) *Transfer to day work.* – As far as practicable, pregnant or nursing employees shall be assigned to day work, before and after childbirth for a period of at least sixteen (16) weeks which shall be divided between the time before and after childbirth.

Medical certificate issued by competent physician (i.e., Obstetrician/ Gynecologist, Pediatrician, etc.) is necessary for the grant of:

- i. additional periods of assignment to day work during pregnancy or after childbirth other than the period mentioned in the foregoing paragraph, provided that the length of additional period should not be more than four (4) weeks or for a longer period as may be agreed upon by the employer and the worker;
- ii. extension of maternity leave; and
- iii. clearance to render night work.

(b) *Provision of social security benefits.* – Social security benefits, such as paid maternity leave shall be provided to women workers in accordance with the provisions of Republic Act No. 8282 (*Social Security Act of 1997*) and other existing company policy or collective bargaining agreement.

(c) *Extension of maternity leave.* – Where transfer to day work is not possible, a woman employee may be allowed to extend, as recommended by a competent physician, her maternity leave without pay or using earned leave credits of the worker, if any.

**Section 7. *Non-diminution of maternity leave benefits under existing laws.*** – Nothing in this Rule shall be construed to authorize diminution or reduction of the protection and benefits connected with maternity leave under existing law.

**Section 8. *Protection against dismissal and loss of benefits attached to employment status, seniority and access to promotion.*** – Where no alternative work can be provided to a woman employee who is not in a position to render night work, she shall be allowed to go on leave or on extended maternity leave, using her earned leave credits.

A woman employee shall not be dismissed for reasons of pregnancy, childbirth and childcare responsibilities as defined under this Rule. She shall not lose the benefits regarding her employment status, seniority, and access to promotion which may attach to her regular night work position.

**Section 9. Compensation.** – The night workers' compensation shall include but not be limited to working time, pay and benefits under the Labor Code, as amended and under existing laws, such as service incentive leave, rest day, night differential pay, 13<sup>th</sup> month pay, and other benefits as provided for by law, company policy or CBA.

**Section 10. Night work schedules.** – The employer shall at its own initiative, consult the recognized workers' representatives or union in the establishment on the details of the night work schedules.

In establishments employing night workers, consultation shall take place regularly and appropriate changes of work schedule shall be agreed upon before it is implemented.

**Section 11. Penalties.** – Any violation of this Rule shall be punishable with a fine of not less than Thirty Thousand Pesos (₱30,000.00) nor more than Fifty Thousand Pesos (₱50,000.00) or imprisonment of not less than six (6) months 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 12. Separability clause.** – If any provision or portion of this Rule shall be declared unconstitutional or invalid, the remaining portions or provisions hereof shall continue to be in full force and effect.

**Section 13. Effectivity.** – This Rule shall take effect 15 days after the date of its complete publication in two national newspapers of general circulation.

Manila, Philippines, January 10, 2017

  
ROSALINDA DIMAPILIS BALDOZ  
Secretary