

Chapter III

PAYMENT OF WAGES

Article 102. *Forms of payment.* No employer shall pay the wages of an employee by means of promissory notes, vouchers, coupons, tokens, tickets, chits, or any object other than legal tender, even when expressly requested by the employee.

Payment of wages by check or money order shall be allowed when such manner of payment is customary on the date of effectivity of this Code, or is necessary because of special circumstances as specified in appropriate regulations to be issued by the Secretary of Labor and Employment or as stipulated in a collective bargaining agreement.

Article 103. *Time of payment.* Wages shall be paid at least once every two (2) weeks or twice a month at intervals not exceeding sixteen (16) days. If on account of force majeure or circumstances beyond the employer's control, payment of wages on or within the time herein provided cannot be made, the employer shall pay the wages immediately after such force majeure or circumstances have ceased. No employer shall make payment with less frequency than once a month.

The payment of wages of employees engaged to perform a task which cannot be completed in two (2) weeks shall be subject to the following conditions, in the absence of a collective bargaining agreement or arbitration award:

That payments are made at intervals not exceeding sixteen (16) days, in proportion to the amount of work completed;

That final settlement is made upon completion of the work.

Article 104. *Place of payment.* Payment of wages shall be made at or near the place of undertaking, except as otherwise provided by such regulations as the Secretary of Labor and Employment may prescribe under conditions to ensure greater protection of wages.

Article 105. *Direct payment of wages.* Wages shall be paid directly to the workers to whom they are due, except:

In cases of force majeure rendering such payment impossible or under other special circumstances to be determined by the Secretary of Labor and Employment in appropriate regulations, in which case, the worker may be paid through another person under written authority given by the worker for the purpose; or

Where the worker has died, in which case, the employer may pay the wages of the deceased worker to the heirs of the latter without the necessity of intestate proceedings. The claimants, if they are all of age, shall execute an affidavit attesting to their relationship to the deceased and the fact that they are his heirs, to the exclusion of all other persons. If any of the heirs is a minor, the affidavit shall be executed on his behalf by his natural guardian or next-of-kin. The affidavit shall be presented to the employer who shall make payment through the

Secretary of Labor and Employment or his representative. The representative of the Secretary of Labor and Employment shall act as referee in dividing the amount paid among the heirs. The payment of wages under this Article shall absolve the employer of any further liability with respect to the amount paid.

Article 106. *Contractor or subcontractor.* Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.

The Secretary of Labor and Employment may, by appropriate regulations, restrict or prohibit the contracting-out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.

There is "labor-only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him.

Article 107. *Indirect employer.* The provisions of the immediately preceding article shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project.

Article 108. *Posting of bond.* An employer or indirect employer may require the contractor or subcontractor to furnish a bond equal to the cost of labor under contract, on condition that the bond will answer for the wages due the employees should the contractor or subcontractor, as the case may be, fail to pay the same.

Article 109. *Solidary liability.* The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of any provision of this Code. For purposes of determining

the extent of their civil liability under this Chapter, they shall be considered as direct employers.

Article 110. *Worker preference in case of bankruptcy.* In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards their wages and other monetary claims, any provisions of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before claims of the government and other creditors may be paid. (As amended by Section 1, Republic Act No. 6715, March 21, 1989)

Article 111. *Attorney's fees.*

In cases of unlawful withholding of wages, the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of wages recovered.

It shall be unlawful for any person to demand or accept, in any judicial or administrative proceedings for the recovery of wages, attorney's fees which exceed ten percent of the amount of wages recovered.