



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



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**WORKING CONDITIONS OF DELIVERY RIDERS
IN FOOD DELIVERY AND COURIER ACTIVITIES**

- I. **PURPOSE AND COVERAGE.** - Pursuant to the provisions of Article 5 of the Labor Code of the Philippines, as renumbered, and Republic Act No. 11058, this Advisory is hereby issued to ensure compliance with applicable general labor standards and occupational safety and health standards and better working conditions for all delivery riders in food delivery and courier activities using digital platform.

- II. **DEFINITION OF TERMS.** - Whenever used in this Labor Advisory, the following terms shall mean as follows:
 - a. Customer – refers to any person who, through the digital platform, places an order to the merchant or books the delivery of a parcel, makes payment, and receives the same from the delivery rider;
 - b. Digital Platform Company – refers to any person or entity who owns, manages and/or operates a location-based digital platform which allocates work to individuals in a specific geographical area in food delivery and courier activities;
 - c. Delivery Rider – refers to any accredited person who, through the digital platform, receives the order from the merchant or the parcel from the costumer, delivers the same and gets paid therefor; and
 - d. Merchant – refers to any accredited person or establishment who, through the digital platform, sells goods and/or services to the public, prepares and processes the order from the customer, and gets paid therefor.

- III. **TEST OF EMPLOYMENT RELATIONSHIP.** - The relationship between the delivery riders and digital platform company shall be based on the principle of primacy of facts by applying the following:
 - a. Four-fold test¹;
 - b. Economic Reality test²; and
 - c. Independent contractor test³

¹ The four-fold test pertains to: (i) the selection and engagement of the employee; (ii) the payment of wages; (iii) the power of dismissal; and (iv) the power of control over the employee's conduct, or the so-called "control test." *Del Rosario v. ABS CBN*, September 08, 2020. The "power of control" is defined as the right to control not only the end to be achieved but also the means to be used in reaching such end. See 617 Phil. 955 (2009).

² The determination of the relationship between employer and employee depends upon the circumstances of the whole economic activity, such as: (1) the extent to which the services performed are an integral part of the employer's business; (2) the extent of the worker's investment in equipment and facilities; (3) the nature and degree of control exercised by the employer; (4) the worker's opportunity for profit and loss; (5) the amount of initiative, skill, judgment or foresight required for the success of the claimed independent enterprise; (6) the permanency and duration of the relationship between the worker and the employer; and (7) the degree of dependency of the worker upon the employer for his continued employment in that line of business. *Del Rosario v. ABS CBN*, September 08, 2020, J. Leonen, concurring.

³ Workers are deemed independent contractors because of their unique skills and talents and the lack of control over the means and methods in the performance of their work. See *Fuji Television, Inc., v. Espiritu*, G.R. No. 204944-45, December 3, 2014.

taking into particular account the flexibility of work including working time, control through technology and use of equipment and other inputs.

IV. WORKING CONDITIONS. - All delivery riders who are deemed employees are entitled to the following minimum benefits, as provided for in the Labor Code, as renumbered, and other labor laws, as may be applicable:

- a. Minimum wage;
- b. Holiday pay;
- c. Premium pay;
- d. Overtime pay;
- e. Night shift differential;
- f. Service incentive leave;
- g. Thirteenth-month pay;
- h. Separation pay;
- i. Retirement pay;
- j. Occupational safety and health standards;
- k. Social Benefits e.g. SSS, PhilHealth, Pag-IBIG; and
- l. Other benefits under existing laws.

All delivery riders who are deemed employees shall also enjoy the right to security of tenure, self-organization, and collective bargaining.


The terms and conditions of engagement of delivery riders who are deemed independent contractors or freelancers shall be governed by their respective contract or agreement with the digital platform company, which stipulates for the following provisions, including but not limited to:

- a. Payment of fair and equitable compensation which shall not be lower than the prevailing minimum wage rate;
- b. Facilitation of registration and coverage under the SSS, Philhealth and Pag-IBIG;
- c. Compliance with applicable occupational safety and health standards such as but not limited to the use of standard protective helmet and personal protective equipment (PPEs), and attendance to regular trainings and seminars on road and traffic rules and road safety to be arranged by digital platform company in coordination with relevant government agencies; and
- d. Arrangement with concerned local government unit and/or merchants or group of merchants in setting up designated waiting areas for delivery riders.

The contract or agreement herein referred to shall be knowingly and voluntarily agreed upon by the parties without any force, duress, or improper pressure or any other circumstances vitiating consent.

- V. **ENFORCEMENT AND DISPUTE RESOLUTION.** Any complaint or grievance of delivery riders and/or digital platform company shall be settled and resolved through conciliation, mediation, inspection or arbitration, whichever is applicable, pursuant to existing rules and regulations.

Be guided accordingly, 23 July 2021.



SILVESTRE H. BELLO III
Secretary

Dept. of Labor & Employment
Office of the Secretary



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