

R. K.

Republika ng Pilipinas  
PAMBANSANG PANGASIWAAN NG PATUBIG  
(National Irrigation Administration)  
Gusaling APC, Quezon Memorial Circle  
Diliman, Lungsod ng Quezon

MC # 39, s. 1970

MEMORANDUM CIRCULAR

TO : ALL HEADS OF DEPARTMENTS, STAFFS AND PRO, CENTRAL OFFICE; ALL REGIONAL AND PROVINCIAL IRRIGATION ENGINEERS, IRRIGATION SUPERINTENDENTS AND/OR OFFICERS-IN-CHARGE OF IRRIGATION SYSTEMS, PROJECT ENGINEERS AND PROJECT MANAGERS, UTRP, COTABATO PROJECT & NIA-UNDP PROJECT  
This Agency

SUBJECTS: Republic Act No. 6132 (1971 Constitutional Convention Act); Republic Act 2260, as amended (Civil Service Act of 1959); and Republic Act No. 180, as amended (Revised Election Code)---Inhibitions, Prohibited Acts, Directives, Penalties and Remedies.

Quoted hereunder for your information and guidance are provisions of R.A. 6132, R.A. 2260, as amended, and R.A. 180, as amended, with citations of pertinent COMELEC resolutions:

1971 CONSTITUTIONAL CONVENTION ACT

1. "SEC. 4. PERSONS HOLDING OFFICE.--Any person holding a public office or position, whether elective or appointive, including members of the armed forces and officers and employees of corporations or enterprises owned and/or controlled by the government, shall be considered resigned upon the filing of his certificate of candidacy; Provided, That any government official who resigns in order to run for delegate and who does not yet qualify for retirement under existing laws, may, if elected, add to his length of service in the government the period from the filing of his certificate of candidacy until the final adjournment of the Constitutional Convention." (Underscoring ours).
2. "SEC. 5. DISQUALIFICATION TO RUN.--Any person elected as delegate to the Constitutional Convention shall not be qualified to run for any public office in any election or to assume any appointive office or position in any branch of the Government until after the final adjournment of the Constitutional Convention." (Underscoring ours).
3. "SEC. 8. PROHIBITED ACTS.--In addition to and supplementing prohibited acts provided for in the Revised Election Code, in the election of delegates;

(i) "(a) x x x

Likewise, no head of any executive department, bureau or office, official or officer nominated or appointed by the President of the Philippines, head or appointing officer of any government-owned or controlled corporation, shall intervene in the nomination of any such candidate, or in the filing of his certificate of candidacy or give aid or support, directly or indirectly, material or otherwise, in favor of or against his campaign for election." (underscoring ours).

- ii) "(b) It shall be unlawful for any public officer, head, official or appointing officer or body of a government office; agency or instrumentality, including corporations and enterprises owned and/or controlled by the government; or any employer or officer of a commercial, industrial, agricultural, economic or social enterprise, or any private person or private corporation or association; or any head, minister, officer or authority of any religion, religious, fraternal, civic, or social organization, directly or indirectly, to coerce any of their subordinates, employees, tenants, members, affiliates, parishioners, or followers, as the case may be, to aid, campaign, vote for or against any candidate in the election of delegates to the Constitutional Convention.

The coercion referred to in this section shall include; but shall not be limited to, any of the following acts: (1) To punish or threaten to punish with dismissal, expulsion, ejection, excommunication, transfer, reduction in wage, salary or compensation; (2) to prevent, or unduly interfere with the performance of duty or work, or the exercise of the freedom of worship; and (3) other forms of penalties or reprisal, as the case may be." (Underscoring ours). (Implemented by COMELEC RES. NO. RR-721, dated September 5, 1970).

- iii) "(c) Except upon prior written authority of the Commission, after due notice and hearing, it shall be unlawful for any head, official, or appointing officer of a government office, agency or instrumentality, whether national or local, including corporations and enterprises owned or controlled by the government, to appoint or hire any new employees, whether provisional, temporary or casual, or to create and fill any new position within forty-five days before the election provided for in this Act.

The Commission shall not grant the authority sought unless it is satisfied that the position to be filled is essential to the proper functioning of the office or agency concerned, and that the position shall not be filled in a manner that may influence the election for delegate.

As an exception to the foregoing provisions, a new employee may be appointed in case of urgent need: Provided, however, That notice of the appointment shall be given to the Commission and to all candidates within the district within three days from the date of the appointment. Any appointment or hiring in violation of this provision shall be null and void." (Underscoring ours). (Implemented by COMLEC RES. NO. \_\_\_\_\_, dated September \_\_\_\_\_, 1970),

- iv) "(d) It shall be unlawful for any government official, including barrio officials, within forty-five days before the election, to release, disburse or expend any funds for:

1. Any and all kinds of public works, unless the authority of the Commission on Elections is first obtained, which authority shall be given only after due notice and hearing and only for necessary maintenance or repairs for the preservation of existing projects." (Underscoring ours). (The NIA Legal Staff has filed a petition, dated September 16, 1970, for exemption from the coverage of the 45-day ban of National Irrigation Systems, UPRP and the Cotabato Irrigation Project.)

- v) "(e) It shall be unlawful during the period of forty-five days before the day of election provided for in this Act:

1. For any person (a) to make any reference to releases of public works funds or barrio development funds, (b) to undertake the construction of public works with materials or equipment procured before the forty-five day period, or (c) to make deliveries of materials for public works purchased before the prohibited period, for the purpose, in each of the foregoing cases, of influencing voters;

2. For any government official to give or promise to give any increase of salary or remuneration or privileges to any government official or employee, including those in government-owned or controlled corporations; and

3. For any government-owned or controlled corporation to give or cause to be given,

and/or to contribute or cause to be contributed any sums of money for any charitable, religious, or social cause whatsoever." (Implemented by COMELEC RES. NO. 723, dated September 8, 1970).

vi) "(g) It shall be unlawful for any member of the security or police organizations of government departments, commissions, councils, bureaus, offices, or government-owned or controlled corporations, or privately-owned or operated security, investigative, protective, or intelligence agencies, to wear his uniform or make use of his insignias, decorations or regalia, or bear arms, except within the immediate vicinity of his department, commission, council, bureau, office, corporation or agency during the prohibited period as provided in this Act." (Underscoring ours).

vii) "(h) The Commission on Elections shall decide all applications for authority under this section within fifteen days from the date of the filing of such application."

4. "SEC. 12. REGULATIONS OF ELECTION SPENDING AND PROPAGANDA.--The following provisions shall govern election spending and propaganda in the election provided for in this Act:

i) "(D) It shall be unlawful for any candidate to avail of the franking privilege, and for any official of the government to use or extend such privilege, for the purpose of furthering or opposing the candidacy of any person as delegate to the Constitutional Convention." (Underscoring ours). (Implemented by COMELEC RES. NO. RR-720, dated September 5, 1970).

5. "SEC. 14. ADMINISTRATION AND TECHNICAL ASSISTANCE.--All government entities, agencies and instrumentalities, including the Senate and House of Representatives, shall place at the disposal of the Convention such personnel, premises, and furniture thereof as can, in their judgment, be spared without detriment to the public service, without cost, refund or additional pay."

6. "SEC. 18. PENALTY CLAUSE.--A violation of any of the provisions of this Act shall be considered a serious election offense carrying a penalty of imprisonment of not less than one year and one day but not more than five years. The offender shall be further sentenced to suffer disqualifications to hold any public office and deprivation of the right of suffrage for not less than one year but not more than nine years; and, if he is a foreigner, he shall be deported immediately after service of his prison term. Should the violation be committed by a political party or any organized group hereinbefore prohibited, the individuals who induced, ordered, directly participated, or indispensably cooperated in the commission of the same shall be equally

liable, and shall suffer the penalties herein provided."

7. "SEC. 19. PETITION FOR DECLARATORY RELIEF.--Any natural or juridical person whose rights are affected by any provision of this Act, may, before breach or violation thereof, bring an action to determine any question of construction, validity or constitutionality arising under this Act and for a declaration of his rights or duties thereunder,"

CIVIL SERVICE ACT OF 1959

8. "SEC. 29. POLITICAL ACTIVITY.--Officers and employees in the civil service, whether in the competitive or classified, or non-competitive or unclassified service, shall not engage directly or indirectly in partisan political activities or take part in any election except to vote. Nothing herein provided shall be understood to prevent any officer or employee from expressing his views on current political problems or issues, or from mentioning the names of candidates for public office whom he supports." (Underscoring ours). (Implemented by Sections 7, 13, 14 and 15 of the Civil Service Rules, approved by the President on September 19, 1962).
9. "SEC. 32. DISCIPLINARY ACTION.--No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law and after due process: Provided, That a transfer from one position to another without reduction in rank or salary shall not be considered disciplinary when made in the interest of public service, in which case the employee concerned shall be informed of the reasons therefor. If the employee believes that there is no justification for the transfer, he may appeal his case to the Commission on Civil Service through the Department Head. Pending his appeal and the decision thereon, his transfer shall be held in abeyance; Provided, however, That no transfer or detail whatever shall be made within three months before any local or national election nor shall any detail last longer than three (3) months without the consent of the employee.

No complaint against a civil service official or employees shall be given due course unless the same is in writing and subscribed and sworn to by the complainant. The respondent shall be entitled to a formal investigation if he so elects, in which case he shall have the right to appear and defend himself at said investigation in person or by counsel, to confront and cross-examine the witnesses against him, and to have the attendance of witnesses and production of documents in his favor by compulsory process of subpoena or subpoena duces tecum." (Underscoring ours). (Implemented by COMELEC RES. NO. RR-715, dated August 27, 1970 and made subject of NIA MC # 36, s. 1970, dated September 11, 1970).

10. "SEC. 44. PENAL PROVISIONS.--Whoever makes any appointment or employs any person in violation of any provision of this Act, or the rules made thereunder, or whoever violates, refuses or neglects to comply with any of such provisions or rules, shall upon conviction be punished by a fine not exceeding one thousand pesos or by imprisonment not exceeding six months, or both such fine and imprisonment in the discretion of the court."


REVISED ELECTION CODE

11. "SEC. 46. PROHIBITED COLLECTIONS OF FUNDS.--It shall be unlawful for any person to hold balls, beauty contests, entertainments or cinematographic, theatrical, or other performances, during two months immediately preceding a regular or special election, for the purpose of raising funds for benefit purposes or for an election campaign or for the support of any candidate." (C.A. 357-40). (Implemented by COMELEC RES. NO. RR-709, dated August 25, 1970).
12. "SEC. 47. PROHIBITED CONTRIBUTIONS.--It shall be unlawful for any corporation or entity operating a public utility or which is in possession of or is exploiting any natural resources of the nation to contribute or make any expenditure in connection with any election campaign." (C.A. 357-41)
13. "SEC. 49. UNLAWFUL EXPENDITURES.--It is unlawful for any person to make or offer to make an expenditure, or to cause an expenditure to be made or offered to any person to induce one either to vote or withhold his vote, or to vote for or against any candidate, or any aspirant for the nomination or selection of a candidate of a political party, and it is unlawful for any person to solicit or receive directly or indirectly any expenditure for any of the foregoing considerations." (C.A. 357-43)
14. "SEC. 54. ACTIVE INTERVENTION OF PUBLIC OFFICERS AND EMPLOYEES.--No justice, judge, fiscal, treasurer, or assessor of any province, no officer or employee of the Army, no member of the national, provincial, city, municipal or rural police force, and no classified civil service officer or employee shall aid any candidate, or exert influence in any manner in any election or take part therein, except to vote, if entitled thereto, or to preserve public peace, if he is a peace officer. (C.A. 357-48) (Underscoring ours).
15. "SEC. 55. SOLICITING CONTRIBUTIONS FROM SUBORDINATES PROHIBITED.--Public officers and employees holding political offices or not belonging to the classified civil service, though they may take part in political and electoral activities, shall refrain from soliciting contributions from their subordinates for partisan purposes. (C.A. 357-49) (Underscoring ours).

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16. SEC. 185. PENALTIES.--Any one found guilty of a serious election offense shall be punished with imprisonment of not less than one year and one day but not more than five years; and any one guilty of a less serious election offense, with imprisonment of not less than six months but not more than one year. In both cases the guilty party shall be further sentenced to suffer disqualification to hold a public office and deprivation of the right of suffrage for not less than one year but not more than nine years; and to pay the costs; and, if he were a foreigner, he shall, in addition, be sentenced to deportation for not less than five years but not more than ten years, which shall be enforced after the prison term has been served. An entity found guilty shall be sentenced to pay a fine of not less than five thousand pesos but not more than one hundred thousand pesos, which shall be imposed upon such entity after criminal action has been instituted against the same in which its legal representative shall be summoned by notice or by publication." (C.A. 357-179, modified).

Strict compliance with the above memorandum circular is enjoined.

  
ALFREDO L. JUINIO  
Administrator

September 21, 1970  
RSA/pgp