

Republika ng Pilipinas
PAMBANSANG PANGASIWAAN NG PATUBIG
(National Irrigation Administration)
Lungsod ng Quezon

MC No. 8, s. 1995

MEMORANDUM CIRCULAR

T O : THE DEPUTY ADMINISTRATOR, ASSISTANT ADMINISTRATORS,
DEPARTMENT HEADS, REGIONAL IRRIGATION MANAGERS,
OPERATIONS/PROJECT MANAGERS, IRRIGATION
SUPERINTENDENTS, PROVINCIAL IRRIGATION OFFICERS
AND ALL OTHERS CONCERNED
This Agency

SUBJECT : REVISED CIRCULAR ON OMBUDSMAN CLEARANCE

Quoted hereunder in full is Memorandum Circular No. 10,
s. 1995 of the Office of the Ombudsman, for your information,
guidance and compliance.

"MEMORANDUM CIRCULAR NO. 10
Series of 1995

T O : ALL HEADS OF DEPARTMENTS, OFFICES, BUREAUS AND
AGENCIES OF THE NATIONAL AND LOCAL GOVERNMENTS,
INCLUDING GOVERNMENT-OWNED AND CONTROLLED
CORPORATION.

R E : REVISED CIRCULAR ON OMBUDSMAN CLEARANCE

Section 12 of Republic Act No. 3019, as amended,
otherwise known as the "Anti-Graft and Corrupt Prac-
tices Act" provides that "(N)o public officer shall be
allowed to resign or retire pending an investigation,
criminal or administrative, or pending a prosecution
against him, for any offense under this Act or under
the provisions of the Revised Penal Code on bribery".

This Office has interpreted said provision as pro-
hibiting the payment of retirement benefits due to a
retiring public official or employee who has pending
criminal or administrative case. Realizing the need to
implement the said provision, Memorandum Circular No. I
was issued enjoining all concerned not to allow the
retirement of any public official or employee as defined
under said Act without first securing/presenting a
clearance to the effect that he has no pending criminal
or administrative case in this Office.

Objections were raised on the propriety of requiring
an Ombudsman clearance, based on a different interpre-
tation of the subject provision to the effect that des-
pite the pendency of a criminal or administrative case
against a retiree, he may still be paid his retirement
benefits subject to the condition that if found guilty,
he is liable to restitute whatever benefits he may have
received during the pendency of the case, citing the

provision of the second paragraph of Section 13 of the Act which provides that "(I)n the event that such convicted officer, who may have already been separated from the service, has already received such benefits, he shall be liable to restitute the same to the government".

Until a judicial pronouncement as to the correct interpretation of Sections 12 and 13 of R.A. 3019 has been made, this Office hereby revises its existing guidelines on the issuance of Ombudsman clearance. Henceforth, a person retiring from the government service whether optional or compulsory, needs only to present a certification from this Office whether or not he has a pending criminal or administrative case with it. In the event the certification presented states that the prospective retiree has a pending case, the responsibility of determining whether to release his retirement benefits, as well as the imposition of necessary safeguards to ensure restitution thereof in the event retiree is found guilty, rests upon and shall be left at the sound discretion of the head of the department, office or agency concerned.

Manila, Philippines, January 24, 1995..

(SGD.) CONRADO M. VASQUEZ
Ombudsman"

Be guided accordingly.

(SGD.) APOLONIO V. BAUTISTA
Administrator

02 March 1995