

Revised Rules on the Right to Self-Organization: A Critique of Department Order No. 40 Series of 2003

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This Article discusses the major modifications made by Department Order No. 40 (D.O. No. 40) of the DOLE on the specific areas of: Registration of Labor Organization; and Representation. The Article first provides a discussion on the Registration of Labor Organizations by explaining the various categories of labor organizations and laying down the requirements for registration under the law. It posits that while D.O. No. 40 maintained the reporting requirement and the submission of the charter certificate, it dispensed with the requirements for the submission of the names and addresses of the union officers, the address of the Chartered Local, and the organization's constitution and by-laws.

Thus, the Order addressed the concern expressed by some federations and organizers on unnecessarily and prematurely revealing the identities of the officers. Consequently, the creation of the organization was simplified. Also, the Order can be seen as regressive insofar as there is delay in reckoning the acquisition of legal personality as compared to the previous rule. The Article also argues that the more reasonable interpretation of the present rules should be one that maintains the core principles of its predecessor, D.O. No. 9.

The Article summarizes that the Order contains both progressive and regressive rules. Some modifications are expected to facilitate the formation of labor organizations while others may have adverse effects on the employees' exercise of their right to self-organization.