

DSWD OPINION NO. 57 S. 2024

DRN: LS-L-LO-24-06-12149-C

MEMORANDUM

FOR : EDMON B. MONTEVERDE
Director IV, Program Management Bureau

FROM : THE ASSISTANT SECRETARY FOR GASSG AND
CONCURRENT OFFICER-IN-CHARGE, LEGAL SERVICE

SUBJECT : OPINION ON MEMORANDUM CIRCULAR NO. 06, SERIES
OF 2024

DATE : 03 JULY 2024

This pertains to your MEMORANDUM¹ requesting for opinion on the effectivity of Memorandum Circular (MC) No. 06, Series of 2024², or the "Enhanced Omnibus Guidelines in the Program Implementation of the Social Pension for Indigent Senior Citizens", particularly on the query:

"Whether the said MC can be used to serve as the main reference of the FOs (Field Offices) in the implementation of the program, superseding all other issuances, while waiting for the scheduled date of publication."

LS Opinion

The Legal Service (LS) respectfully submits that the MC cannot be used, at the time being, as the main reference of the FOs in implementing the Social Pension for Indigent Senior Citizens (SPISC) program. The MC will only take effect after fifteen (15) days following its publication in the Official Gazette or a newspaper of general circulation.

Provided for under **Article 2 of the New Civil Code**, "laws shall take effect after fifteen days following the completion of their publication in the Official Gazette or in a newspaper of general circulation in the Philippines, **unless it is otherwise provided....**"

In the case of *Tanada v. Tuvera*³, the Court discussed as follows:

"xxxx, we have come to the conclusion and so hold, that the clause "unless it is otherwise provided" refers to the date of effectivity and not to the requirement of publication itself, which cannot in any event be omitted. This clause does not mean that the legislature may make the law effective

¹ Annex "A" – Memorandum from PMB

² Annex "B" – Memorandum Circular No. 06, Series of 2024

³ G.R. No. L-63915 December 29, 1986

immediately upon approval, or on any other date, without its previous publication.

Publication is indispensable in every case, but the legislature may in its discretion provide that the usual fifteen-day period shall be shortened or extended. An example, as pointed out by the present Chief Justice in his separate concurrence in the original decision, is the Civil Code which did not become effective after fifteen days from its publication in the Official Gazette but "one year after such publication." The general rule did not apply because it was "otherwise provided."

Here, MC No. 06-24 explicitly provides:

"XVII. EFFECTIVITY CLAUSE

This issuance shall take effect after fifteen (15) days from the date of publication in the Official Gazette or a newspaper of general circulation. These Memorandum Circular shall also be published to the DSWD official website, and three (3) copies hereof shall be deposited with the University of the Philippine Law Center."

To answer your specific query, the MC cannot be used, at the time being, as the main reference of the FOs in implementing the SPISC program. If the MC is set to be published on 16 September 2024, it will take effect on 01 October 2024. Should this date of publication be delayed or made earlier than 16 September 2024, then the MC shall take effect after fifteen (15) days from the date of such publication.

Please be informed that the foregoing legal review is based solely on the information provided by your office, and may vary based on additional information or document/s or when the facts are changed or elaborated.

Kindly fill out the attached Customer Feedback Form and return the same to the Legal Service.

For your consideration. Thank you.


ATTY. GINA V. WENCESLAO

 VIA DOR 10065

Approved by:


ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary, GASSG