

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HB NO. 1359

Introduced by Rep. Roseller L. Barinaga

EXPLANATORY NOTE

This bill seeks to provide a Magna Carta for the Workers in the Informal Sector.

The informal sector comprises almost half of the country's total workforce. They include among others the micro-entrepreneurs, the househelps, small farmers, illegal sidewalk vendors, hawkers, kaingeros (or the so-called slash-and-burn dwellers), and other groups of people who live and earn their living in their own little ways.

In economic parlance, "informal sector" refers to a specific sector in the economy where most of the participants are categorized as "unregistered, undocumented, untaxed, uninsured, disorganized and doing irregular economic activities." Often, they are also being referred as "small-scale (economic) units, self-employed activities (with or without hired workers, with low level of organization and technology."

Largely coming from the economically-disadvantaged sector, the informal sector live in substandard conditions (in hovels even, among the many squatter colonies), earning just a pittance that is hardly enough to meet their basic needs. They include the jobless and the underemployed, out-of-school youth, housewives, and children, marginalized workers in depressed communities, the disabled, etc. – all of whom hailed from the impoverished groups who lack skills, education and access to employment. Because of their very nature, they are exposed to exploitative terms and conditions of work. Work condition is substandard, which often feature cramped workspace, improper posture, fatigue, poor work tools, poor lighting and ventilation, heat and some chemical hazards.

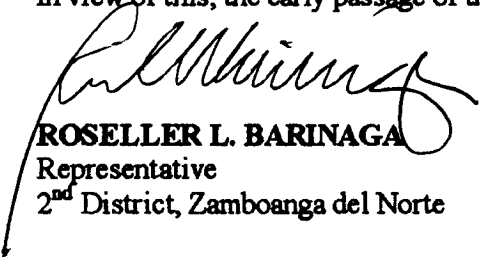
By their very nature and operation, workers belonging to the informal sector are excluded from the coverage of the Labor Code and other pieces of social legislation and are subject to exploitation by businesses and factories which often resort to subcontracting low wages, long hours of work, absence of fringe benefits, etc. Moreover, women and children who fall into this sector are likewise vulnerable to exploitation from wholesalers, moneylenders and corrupt police authorities through "kotong" or extortion. Furthermore, the absence of a monitoring system and regulations to protect their respective working environments have made them exposed to health and safety risks.

It cannot also be denied, on the other hand, that by sheer need to earn a living, many of the people in the informal sector who engage selling foodstuffs and drinks have often compromised sanitation, safety and quality standards of the items they sold.

A cursory look at all these activities only proves that there are just a lot of things to be pursued if indeed the government is determined to protect and promote the interest and welfare of millions of Filipinos belonging to the informal sector of the economy.

This proposed Magna Carta for the Workers in the Informal Sector, therefore, envisions to pursue realistic efforts to correct the prevailing system which, in one way or another, have denied and plunged the informal sector of the Philippine economy into deeper menace. By introducing an integrated, holistic and comprehensive policy instrument for the informal sector, it is hoped that a systematic effort towards bringing the informal sector into the mainstream of Philippine economy can be achieved.

In view of this, the early passage of this bill is earnestly sought.



ROSELLER L. BARINAGA

Representative

2nd District, Zamboanga del Norte

HOUSE OF REPRESENTATIVES

HB NO. 1359

Introduced by Rep. Roseller L. Barinaga

**AN ACT
PROVIDING FOR A MAGNA CARTA FOR THE WORKERS IN THE INFORMAL
SECTOR, INSTITUTIONALIZING MECHANISM FOR IMPLEMENTATION
THEREOF AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

**TITLE I
GENERAL PROVISIONS**

Chapter I

Framework and Principles

SECTION 1. *Short Title.* This Act shall be known as the "Magna Carta for the Workers in the Informal Sector."

SEC. 2. *Declaration of Policy.* It is hereby declared the policy of the State:

(a) To promote and improve the total well-being of the poorest-of-the-poor and the marginalized low level income earners who engaged in economic activities under the informal sector;

(b) To nurture and protect the interests of the informal sector by providing with adequate and timely social, economic and legal services, as well as mechanisms that shall protect their rights and promote benefits that ensure their dignified existence and economic advancement;

(c) To recognize the rights of every worker in the informal sector, to protect them, especially women and children, from abuse, economic exploitation and from performing work that is hazardous to their physical, mental and spiritual health;

Toward this end, the State shall come up with an integrated, holistic and comprehensive policy instrument for the informal sector that will facilitate:

(1) the enhancement of their entrepreneurial skills and their capabilities to become more productive and self-reliant thereby ensuring their protection, assistance, support and participation in the mainstream economic activities; and

(2) a continuing process of consultation and dialogue with said sector to be able to maximize the provision of a systematic package of reform intervention services.

SEC. 3. *Framework and Principles.* The government shall pursue a minimum regulation and encourage the development of ingenuity and the entrepreneurial spirit among the citizenry. In this regard, the LGUs and their respective attached agencies shall see to it that procedural rules and requirements for the IS are minimized in the act of registration, availment of financing, grants and other incentives and accessing other government services and assistance.

In order to hasten the growth and expansion of the various business activities or enterprises under the informal sector, the private sector shall be encouraged to assist in the effective implementation of this Act by participating in government programs for the informal sector. In this regard, the DTI, in consultation with the concerned government agencies, the LGUs and the informal sector, may recommend simplified procedure and localized incentives for the benefit of the informal sector. The government shall encourage the organization, establishment, strengthening and expansion of the various business activities or enterprises under the informal sector in the barangay level preferably unified under a municipal/city, provincial, regional and national federation/association.

SEC. 4. *Definition of Terms.* As used in this Act, the following terms shall mean:

(a) *Daily Basis* refers to the per day mode of paying a private worker as bilaterally agreed upon by both the employer and the worker.

(b) *Employer* refers to a natural person or group or partnership of people for which a paid worker renders productive employment or service.

(c) *Hazardous work or condition* refers to any activity or circumstance where a worker is exposed to any risk which constitutes an imminent danger to his/her health and safety.

(d) *Kasambahay* refers to any person, whether male or female, who is to be engaged, is engaged or has been engaged locally in a salaried capacity under a full-time basis and paid directly by the employer, undertaking tasks ascribed as normal household chores within a specific household. The term includes maids, cooks, houseboys, family drivers and babysitters (*yaya*) who provide daily service to a single, specific household, either on a live-in or live-out basis. In common term, *kasambahay* is called household helper.

(e) *Worker of minor age* refers to children fifteen (15) years up to seventeen (17) years of age who are engaged in productive employment under a valid contract of employment.

(f) *Informal Sector*, which is herein otherwise referred to as IS, refers to a category of individuals or partnerships of people involved in any business activity or enterprise whose total assets value, inclusive of the capital investments, must not be more than Ten Thousand Pesos (P10,000.00) for single proprietorship and Twenty-five Thousand Pesos (P25,000.00) for partnership ventures and/or whose annual income must not exceed Thirty-five Thousand Pesos (P35,000.00) and One Hundred Fifty Thousand Pesos (P150,000.00), respectively.

The above definition shall be subject to review and adjustment upon the recommendation by the Regional Wage Board (RWB), in consultation with the National Economic Development Authority (NEDA) *motu proprio* taking into account inflation and other economic indicators.

(g) *Monthly Basis* refers to the per month mode of paying a private worker as bilaterally agreed upon by both the employer and the worker.

(h) *Pacquiao Basis* refers to the pre-contracted wholesale mode of paying a private worker as bilaterally agreed upon by both the employer and the worker.

(i) *Self-employed worker* refers to any person, whether male or female, who is to be engaged, is engaged or has been engaged locally and paid directly by the homeowner/employer to provide services to either a single or a number of households on a contractual or day-to-day basis. The term includes gardeners, laundry women and household helpers hired on a day-to-day basis, provided that they do not report for work to a single household for four (4) days a week or more, else they shall be classified as *kasambahay*.

(j) *Worker* refers to a general term to mean either or both the self-employed or paid employee covered under the provisions of this Act.

(k) *Working hours* refers to the period of time within which a worker is required to be on call to perform any and all tasks that may be designated, regardless of whether there are actual tasks being undertaken.

Chapter II

Coverage, Qualifications and Accreditation

SEC. 5. Registration; Payment. IS business activities or enterprises shall, upon registration, pay Fifty pesos (P50.00) to the municipality or city where they intend to productively employed during their initial year of operation. The said fee shall cover the cost of the issuance of the license to operate.

SEC. 6. Annual Dues. IS business activities or enterprises shall pay the fee to the municipal or city treasurer where they are registered and accredited, starting on their second year of operations, based on the following schedule:

- (a) Those with net assets before financing amounting to not more than
P 2,000.00 P 180.00

- (b) Those with net assets before financing of more of more than P 100,000.00 to P 2,000.00 to 5,000.00 P 360.00
- (c) Those with net assets before financing of more than P400,000.00 to P 7,500.00 to 10,000.00 P 720.00

The collected fee shall accrue exclusively to the municipality or city and shall be used for IS development programs approved by the municipal or city council.

SEC. 7. *Revocation of Business Authority.* The authority to do business shall, after due notice and hearing, be revoked and cancelled upon the failure of the IS business activities or enterprises, without valid reasons, to commence its operations within forty-five (45) days from receipt of the authority to operate.

SEC. 8. *Coverage.* This Act shall cover members of the informal sector who are operating, employed or working either as micro-entrepreneur, paid worker or self-employed as defined herein. *Provided, however,* That the aforesaid micro-entrepreneur, paid worker or self-employed qualifies the minimum requirements set forth in this Act.

For purposes of this Act, the term "informal sector" shall cover the following:

- (a) Micro-entrepreneurs:
- (i) sidewalk vendors, fish vendors;
 - (ii) small scale farmers and fisherfolks;
- (b) Employed/Self-Employed:
- (i) local domestic helpers or *kasambahay*;
 - (ii) barbers, manicurists, pedicurists;
 - (iii) pedicab/tricycle drivers;
 - (iv) jeepney drivers ;
 - (v) taxi drivers ;
 - (vi) carpenters, plumbers, electrician, mason, house painters;
 - (vii) welders, mechanics

SEC. 9. *Accreditation.* Any member of the IS who meets such eligibility, qualification and other necessary requirements as provided for under this Act shall be accredited as member of the IS.

Accreditation for eligibility for any development program shall be reviewed, revalidated and reassessed every two (2) years from the date of last accreditation by the LGUs where the IS operates. Renewal of eligibility shall be based in accordance with the merit and fitness principle.

SEC. 10. *Eligibility for Benefits.* The selection and appointment of beneficiaries under this Act shall be in accordance with the merit and fitness principle: *Provided,* That the applicant is an accredited member of the IS, as prescribed herein. Only accredited member shall be eligible for assistance, support and grants under this Act.

Chapter III

Special Allocations for Development Initiatives

SEC. 11. *Special Allocations for Development Initiatives.* The national government shall allocate at least ten (10%) percent of its annual national budget to be appropriated proportionately in accordance with the corresponding internal revenue allocation (IRA) of respective LGUs. Such allocation shall be annually added to the current IRA of LGUs.

The said allocation shall be utilized by LGUs for the implementation of livelihood programs pursuant to the provisions of this Act. Priority shall be given to income generating programs for the poorest-of-the-poor. The emphasis of the programs shall be focused on micro-credit programs and schemes through the mobilization of the IS with no assets to engage in self-employment and income generating activities.

For this purpose of this Chapter, an Informal Sector Development Fund shall be established in every city/municipality for the their supervision and management subject to accounting and auditing procedures by the Commission on Audit (COA).

SEC. 12. *Sourcing and Adopting Development Initiatives.* The Small Business Guarantee and Finance Corporation (SBGFC), which is created under Republic Act No. 8289, shall assist in the sourcing and adopting of development initiatives for competitive enterprises in terms of finance, technology, production, management and business linkages, and provide and promote, develop and widen in both scope and service reach various alternative modes of financing for IS business activities or enterprises, including but not limited to, direct and indirect project lending, venture capital, financial leasing, secondary mortgage and/or rediscounting of loan papers to IS business activities or enterprises, and crop production financing.

The Corporation shall guarantee loans obtained by qualified IS worker or business activity or enterprise, whether single proprietorship or a partnership venture, under such terms and conditions adopted by its Board. It shall become liable under its guarantees upon proof that the loan has become past due under such terms and guidelines adopted by its Board and printed on the contract of guarantee.

All provisions stipulated under R.A. No. 8289 in connection with the SBGFC shall continue to effect except those which are deliberately changed or amended hereof.

SEC. 13. *Eligibility for Government Assistance.* To qualify for assistance, incentives and grants, a worker or business activity or enterprise shall be:

(a) duly registered and accredited with the appropriate agency in the LGU where they are actively operating and paid the necessary fees for registration and accreditation from the office of the municipal or city treasurer-concerned;

(b) one hundred percent (100%) owned and capitalized by Filipino citizens, be it single proprietorship or a partnership venture; and

(c) fall under the above-mentioned sub-categories of IS;

SEC. 14. *Exclusivity of Government Programs.* The government shall ensure that programs of financing, grants and other similar incentives shall be exclusively extended to an accredited IS worker and business activity or enterprise.

SEC. 15. *Entitlement of Government Procurements.* The government shall work for a mechanism to ensure that duly accredited IS worker or business activity or enterprise for an entitlement of a share of at least ten percent (10%) of total procurement value of goods and services supplied to the government, its bureaus, offices and agencies annually: *Provided*, That prices and quality of goods offered by the above-mentioned accredited IS worker or business activity or enterprise are competitive.

SEC. 16. *Coordination with LGUs.* Pursuant to the provisions of Republic Act No. 7160, the local chief executives in coordination with IS representatives and appropriate agencies shall formulate specific plans that will address the socio-economic needs of the IS and incorporate them in their respective provincial, city and municipal development plans.

SEC. 17. *Tax Exemption.* A duly accredited IS worker or business activity or enterprise shall be exempted from all taxes, national or local, license and building permit fees and other business taxes, except real property and capital gains taxes, import duties and other taxes on imported articles. In addition, any and all income, receipts and proceeds derived from their business operations shall be excluded for the computation of gross income for purposes of computing the individual income tax of the members thereof.

It shall be exempted from any and all government rules and regulations in respect of assets, income, and other activities indispensably and directly utilized in, proceeding from or connected with the IS business or the enterprise.

SEC. 18. *Forfeiture of Benefits.* All the exemptions and other benefits herein provided shall, after due notice and hearing, be forfeited in case of any violation of the provisions of this Act by any IS member or partnership venture.

SEC. 19. *Inclusivity of Benefits.* The exemptions and other benefits provided in this Act shall apply for a period not exceeding five (5) years from the date of the registration, provided such IS worker or business activity or enterprise is registered and accredited within five (5) years from the effectivity of this Act.

Chapter IV

Informal Sector Development Council

SEC. 20. *Creation of an Informal Sector Development Council; Mandate.* There is hereby created an Informal Sector Development Council, herein otherwise referred to as the Council, which shall be attached to the DTI and shall be constituted within sixty (60) days after the approval of this Act.

The Council shall be the primary agency responsible for the promotion, growth and development of the IS in the country by way of facilitating and closely coordinating national efforts to promote the sector's viability and growth, including the provision of an integrated program for skills enhancement, literacy and education, health services, social welfare and

services, assistance in the tapping of local as well as foreign funds, and other functions relative to the attainment of the objectives and policy of this Act.

SEC. 21. *Composition.* The Council shall be headed by the Secretary of the DTI as Chairman, and may elect from among themselves a Vice-Chairman to preside over the Council meetings in the absence of the Chairman. The members shall be the following:

- (a) Director General of the NEDA;
- (b) Secretary of DA;
- (c) Secretary of DOLE;
- (d) Secretary of DSWD;
- (e) Secretary of the DOH
- (f) Secretary of DOT;
- (g) Administrator of the NHA;
- (h) Administrator of the CDA;
- (i) Chairman of Small Business Guarantee and Finance Corporation;
- (j) Three (3) representatives from the private sector at large, all Filipino citizens, to represent Luzon, Visayas and Mindanao; and
- (k) One (1) representative from the informal sector to be appointed by the President.

An *ex officio* member of the Council who possesses a cabinet-rank shall designate an undersecretary or assistant secretary as his/her permanent alternate representative in case he/she fails to attend meetings in the exigency of his/her official function in the department.

The private sector members of the Council shall be entitled to receive *per diem* of Two Thousand Pesos (P2,000.00) per meeting. The Council shall meet once every two months or it may call for special meetings as the need may arise: *Provided*, That the frequency of such special meetings shall not exceed four (4) times annually.

The DTI shall allocate Ten million pesos (P10,000,000.00) out of its savings for the initial operating expenses of the Council, after which the Council's budget shall be included in the department's annual appropriation.

SEC. 22. *Mandate of the Council.* The Council shall have the following mandate:

(a) Prepare and establish a System of Accreditation for the IS in accordance with the standards and provisions of this Act;

(b) Provide guidelines for the implementation by the LGUs of a fair and credible system of evaluation, accreditation, review and assessment, merit promotion, rendering of

grants and incentive awards and other policies relative to the effective implementation of this Act;

(c) Prepare a program of training for human resource development, including the specific areas of entrepreneurship and business management;

(d) Coordinate with LGUs for the development and implementation of periodic evaluation of all accredited IS members -- taking into account their accomplishments, capabilities and potentials -- which results of shall be used as bases for evaluation, accreditation, the grant of awards and incentives, training and retraining;

(e) Establish a performance appraisal system for all accredited IS members which shall be the basis for incentives, rewards and recognition, training and development, including adequate mechanisms that shall ensure their active participation and involvement; and

(f) Establish the criteria and process for the accreditation and renewal of such eligibility for development assistance, support and grants.

SEC. 23. *Authority of the Council to Solicit Assistance from Various Agencies.* The Council may, from time to time, call upon the participation of any government agency or bureaucracy in its deliberations especially when such agency is directly or indirectly concerned with and/or affecting the growth and development of the IS in any particular area or manner.

The Council, further, may create an Executive Committee of five (5) members elected by the Council from among themselves or their duly designated alternate representatives, with at least two (2) members representing the private sector, and with authority to act for and on behalf of the Council during intervals of meetings, and within the specific authority granted by the Council.

SEC. 24. *Council Secretariat.* The Council, through the Chairman, shall designate, in his capacity as secretary of the DTI, any division or bureau within the DTI to act as the Council Secretariat and shall have the following duties and functions:

- (a) To prepare, in coordination with LGUs and other local government agencies, and recommend annual as well as medium-term IS Enterprise Development Plans for the approval of Council;
- (b) To coordinate the preparation of position papers and background materials for discussion or approval during Council meetings;
- (c) To assist the Council in coordinating and monitoring the policies, programs and activities of all government agencies with respect to the implementation of this Act;
- (d) To prepare, collate, integrate all inputs to the Council's yearly report on the status of the IS business activities or enterprises in the country;

(e) To submit periodic reports to the Council on the progress and accomplishment of its work programs; and

(f) To perform *ad hoc* functions as authorized by the Council.

SEC. 25. *Rationalization of Programs.* The Council shall conduct continuing review of government programs for the poorest-of-the-poor and the IS and submit to Congress and the President a report thereon together with its policy recommendations.

The President is hereby empowered to establish, within ninety (90) days upon the effectivity of this Act, an informal sector enterprise promotion body which shall be the principal government agency that will formulate, implement, coordinate and monitor all non-financing government programs, including fee-based services, to support and promote entrepreneurial spirit among the poorest-of-the-poor. The informal sector enterprise promotion body shall be attached to the DTI and shall be under the policy, program and administrative supervision of the Informal Sector Development Council. The said office shall be allocated the amount of Ten million pesos (P10,000,000.00) for its first year of operation which shall be appropriated from the special fund of the Office of the President, and thereafter its annual appropriation shall be included in the General Appropriations Act.

Heads of LGUs in the provincial, city and municipal levels are further empowered to establish in their respective jurisdiction an Informal Sector Division or Bureau, under the office of the Provincial Governor or City/Municipal Mayor, whichever is applicable, to implement, coordinate and monitor all business activities or enterprises and intervene on IS-related problems and concerns under their respective jurisdictions.

Chapter V

IS Livelihood Resource Center

SEC. 26. *IS Livelihood Resource Center.* The IS Livelihood Resource Center shall be established in every city/municipality to enhance access of assistance and support to disadvantaged members particularly in remote rural areas.

For this purpose, the DTI, Technical Education and Skills Development Authority (TESDA) and Technology and Livelihood Resource Center (TLRC) shall develop livelihood programs which will harness the skills of the IS members.

The aforesaid agencies shall conduct human resource development program and management in the following areas:

(a) Adequate facilities and resources to render quality social service;

(b) Opportunities for IS workers to grow and develop their potentials and experience a sense of worth and dignity in their work;

(c) Mechanisms for democratic consultations;

(d) Upgrading of working conditions;

(e) Allocation of funds for the participation of IS workers in skills training and workshops and other similar activities as part of their continuing advancement; and

SEC. 27. *Functions of IS Livelihood Resource Center.* The IS Livelihood Resource Center shall have the following functions:

(a) Conduct training program which will provide new ideas to IS players and upgrade the technical and entrepreneurial skills of others who are already in the field;

(b) Implement consciousness-raising capability building and leadership training;

(c) Provide technical support and access credit to the informal sector engaged in micro-entrepreneurship and cottage industries or other productive work;

(a) Monitor the performance of the IS in the area

(e) Give advise and recommendations as to the strengthening and expansion of the IS activities; and

(f) Provide services, to include but not limited to counseling, legal assistance, credit assistance, and other services necessary for the furtherance of this Act.

The LGUs shall allocate at least P 100,000.00 annually for the operation and maintenance of the Center. The local chief executives shall act as the primary overseers to the overall operation of the Center.

Chapter VI

IS Comprehensive and Integrated Plan and Inter-Agency Networking

SEC. 28. *Comprehensive Plan.* The NEDA shall be tasked to formulate a Ten-Year Comprehensive and Integrated Plan on the impact of globalization to the IS. It shall determine and recommend the necessary safety nets needed by the IS to prepare them for the possible effects of globalization.

SEC. 29. *Inter-Agency Networking.* The DOLE shall provide for and lead the inter-agency networking system among the different departments and instrumentalities of government, should the same be required in the continuing efforts to protect the interests, rights and privileges of IS workers.

The Council, in coordination with the DECS and CHED, shall design a comprehensive and integrated program for IS members to give them opportunity to pursue free education.

The cooperatives through the help of the DTL, TESDA and TLRC shall inform IS in the rural of opportunities for market and technology access and the availability of livelihood training and seminars to respond to IS needs and potentials.

The DSWD shall, within a period of one (1) year from the date of effectivity of this Act, institute a program designed specifically to provide emergency services specifically to women and the minor-aged IS workers who are in need of custody, shelter, healing, or medical, psychological, legal and rehabilitative services.

The DSWD shall, upon the recommendation of the DOLE, effect the repatriation of minor-aged IS workers who either voluntarily seek government protection against abuse and exploitation or upon report or discovery of the same. The cost of such repatriation shall be borne by the DSWD. The DOLE shall formulate the rules and regulations governing the emergency repatriation of the same.

For this purpose, a Repatriation Fund is hereby created and established under the administration and control of the DSWD in the amount of Five million pesos (P5,000,000.00) to be taken from the President's Social Fund.

Chapter VII

General Rights

SEC. 30. *Basic Rights.* Every member of the IS have the right to:

- a) Participate in all spheres of society including the decision-making processes to fully realize their role as agents and beneficiaries of people-centered development;
- b) Be treated equally before the law;
- c) Be provided with safe and healthful conditions in the workplace;
- d) Be given equal access to education, skills training, and economic resources to develop their self-reliance;
- e) Be properly informed of the issues and concerns affecting the welfare and interests of their sector;
- f) Be protected from any form of discrimination, violence, sexual exploitation and abuse.

SEC. 31. *Right to Medical Care and Humane Treatment.* Every worker has a right to good quality health care, without any discrimination and within the limits of the resources available for health and medical care. In the course of such care, his human dignity, culture, convictions and integrity shall be respected.

The employer or any member of the household or institution shall, at all times, treat his/her worker in a just and humane manner. In no instance shall abusive language, physical violence or any act which debases, degrades or demeans the intrinsic worth and dignity of the worker as a human being be used upon the latter.

SEC. 32. *Right to Organize.* The State recognizes the right of IS workers to organize themselves to promote their welfare and advance or safeguard their interests. Towards this end, the government shall assist IS especially in the rural areas in establishing self-help organizations.

IS engaged in agricultural, manufacturing and service sector are encouraged to form women's cooperatives in every city/municipality to enable members to avail of credit assistance and skills training which will help improve their quality of life.

Chapter VIII

Benefits and Incentives

SEC. 33. *Medical/Health Insurance.* A worker, regardless of age and compensation levels, shall be covered by a free medical/health insurance under the Philippine Health Insurance Corporation (PHILHEALTH), and be entitled to all the benefits provided for under the law: *Provided, however,* That the worker has rendered at least one (1) year of continuous service in the employment he/she is currently in: *Provided, further,* That if the worker intends to have a medical/health insurance during his/her the initial months of his/her employment, he/she shall shoulder all the necessary premiums due him/her until the seventh (7th) month when the employer shares fifty (50%) percent of the monthly required premiums.

For purposes of this Section, The PHILHEALTH shall, within ninety (90) days from the effectivity of this Act, promulgate guidelines for the mechanism of collecting the aforesaid contributions especially for those contracted workers who are employed on daily, monthly or *pacquiao* basis. The PHILHEALTH is hereby mandated to implement an outreach program that will facilitate the remittance of premiums by either the employer or the worker by whatever means deemed feasible.

Pending the promulgation of pertinent implementing rules and regulations to this effect, the employee shall receive the employers' share or counterpart contribution and may remit said amount together with his/her own share to the SSS.

SEC. 34. *Social Security Coverage.* A worker, regardless of age and compensation levels, shall be covered by social security and be entitled to all the benefits provided under Republic Act No. 8282: *Provided, however,* That the worker has rendered at least one (1) year of continuous service in the employment he/she is currently in: *Provided, further,* That if the worker intends to become a member of the SSS or intends to continue his/her social security contribution during his/her the initial months of his/her employment, he/she shall shoulder all the necessary premiums due him/her until the seventh (7th) month when the employer shares fifty (50%) percent of the monthly required contribution.

For purposes of this Section, The SSS shall, within ninety (90) days from the effectivity of this Act, promulgate guidelines for the mechanism of collecting the aforesaid premiums especially for those contracted workers who are employed on daily, monthly or *pacquiao* basis. The SSS is hereby mandated to implement an outreach program that will facilitate the remittance of premiums by either the employer or the worker by whatever means deemed feasible.

Pending the promulgation of pertinent implementing rules and regulations to this effect, the employee shall receive the employers' share or counterpart contribution and may remit said amount together with his/her own share to the SSS.

Chapter IX

Institutional Mechanisms

SEC. 35. *Consultations with IS Organizations.* The Informal Sector Development (ISD) Council, in coordination with other concerned agencies and LGUs, shall conduct annual national, regional and provincial consultations among the IS organizations to determine the specific issues and problems affecting the their sector. The Council shall channel IS concerns to the appropriate agencies and provide the necessary recommendations to the executive and legislative departments.

SEC. 36. *Establishment of IS Database.* The Council shall establish and develop a centralized database system to effectively work policy formulation and policy concerns relative to the IS. The databank shall include but not limited to the following:

- a) List of government and non-governmental organizations which provide educational, socio-economic and legal services to the IS;
- b) Inventory of upheld and pending cases involving the IS activities;
- c) Statistical profile of the various IS classified according to activities, involvement and other statistical information;
- d) Database of the needs and problems of women and children in the IS nationwide; and
- e) Compilation of existing laws and programs affecting the interest and welfare of the IS.

The public shall be allowed to have access to the said data provided that they shall abide with the regulations that will be set by the inter-agency committee.

Chapter X

Benefits to Participating Private Sector

SEC. 37. *Incentives to Private Sector.* The national government shall implement a mechanism which shall give incentives and benefits to private sector organizations participating in a national effort to advance the interest and welfare of the IS.

The Department of Finance in coordination with the Bureau of Internal Revenue shall promulgate guidelines for the effective implementation of this Section.

TITLE II

IS WORKERS ENTERING INTO CONTRACTED EMPLOYMENT

Chapter I

Requisites for Contracting Employment

SEC. 38. *Employment Contract.* All working arrangements entered into by IS workers shall be covered by a written employment contract, in a language or dialect understood by both employer and worker, duly signed by both the employer and the worker. Under this Act, the employer and the worker may enter into either one of the following three (3) working arrangements: *Daily Basis, Monthly Basis, or Pacquiao Basis.*

In every contract entered into each contracting party shall be provided with a full set of the duly signed employment contract, the basic provisions of which shall include the following:

- (a) working arrangement/mode;
- (b) period/duration of employment;
- (c) compensation and mode of payment;
- (d) computation of contributions for social security and medical insurance;
- (e) computation of leave deductions;
- (f) duties and responsibilities;
- (g) working hours and day-off schedule;
- (h) living quarters or sleeping arrangements (for live-in workers)

In cases wherein employment of a worker of minor age are allowed, the said employment contract shall be signed on his/her behalf by either parent or legal guardian, with the expressed written consent of said minor.

In cases wherein employment of illiterate worker are allowed, the said employment contract shall be explained to the worker concerned and attested to by a representative from the LGU or an elected Barangay official in the city or municipality where the worker is designated to work.

SEC. 39. *Medical Certificate as Pre-requisite for Employment.* A medical certificate attesting to the physical and mental fitness of an applicant for work must be secured from a licensed physician as a pre-requisite for employment, the cost of which shall be for the account of the employer.

Chapter II

IS Workers of Minor Age

SEC. 40. *Allowable Employment of Worker of Minor Age.* Children below sixteen (16) years of age may be employed: *Provided,* That a parental consent be presented and attested by any representative from the LGU or duly elected barangay official where the

productive employment is to be done: *Provided, further*, That the provisions of the UN Convention on the Worst Forms of Child Labor be taken into consideration in the course of employing such children.

In no instance, however, shall children below fifteen (15) years of age be engaged in whatever form of productive service.

Unless expressly employed as *kasambahay* with duly executed contract of employment, children who live with their parents at the employer's residence or those whose sustenance or education is being provided for by the homeowner, shall not be considered as *kasambahay*.

Workers of minor age shall not be allowed to render work for more than ten (10) hours a day, five (5) days per week, exclusive of one (1) hour breaks each for breakfast, lunch and dinner.

SEC. 41. Custody over Minor-aged individual. Should a minor-aged worker refuse to be repatriated against the recommendation of the DSWD, said individual may be placed under the custody and care of the DSWD or that of a duly recognized and accredited non-government organization, or placed in a suitable employment.

Chapter III

Standardized Wage Rate

SEC. 42. Standardized Wage Rate. Pursuant to the provisions of this Act, a standardized wage rate is hereby set forth:

For Kasambahay

- | | | |
|--|---|-------------------------|
| (a) 4 th – 6 th class municipalities | - | Below P1,000.00 |
| (b) 1 st – 3 rd class municipalities &
Chartered & Component Cities | - | P 1,001.00 – P 1,800.00 |
| (c) National Capital Region | - | P1, 801.00 – P 2,500.00 |

For Employed Worker

- | | | |
|---|---|---------------------|
| (a) 4 th – 6 th class municipalities | - | |
| Skilled: | | P 90.00 – P 120.00 |
| Unskilled: | | P 60.00 – P 80.00 |
| (b) 1 st – 3 rd class municipalities & Chartered & Component Cities | | |
| Skilled: | | P 130.00 – P 180.00 |
| Unskilled: | | P 90.00 – P 120.00 |
| (c) National Capital Region | | |
| Skilled: | | P 230.00 – P 260.00 |
| Unskilled: | | P 190.00 – P 220.00 |

Provided, That a worker who has been contracted work in other city/municipality other than the place of residency shall be entitled for the daily wage rate of the city/municipality where he/she actually works: *Provided, further*, That a worker who has contracted employment outside the city/municipality of residency shall be afforded free assistance and support in the form of housing and food by the contractor/employer.

In the case of a worker who works on monthly or *pacquiao* basis, the wage rate to be applied shall be based in the wage rate of the city/municipality where he/she actually works. He/she shall also be afforded free housing and support during the tenure of the contract.

In no instance, however, shall workers of minor age be deprived of the above standardized wage rate system set forth in this Act.

SEC. 43. *Payment of Wages.* Payment of wages shall be made directly to the worker, at least once every two (2) weeks or twice a month. No deductions from said wages shall be made by the employer except those provided by law. The expressed written consent of the worker shall first be secured before any deduction is made.

Chapter IV

Prohibited Acts

SEC. 44. *Prohibition Against Night Work.* Worker of minor age shall not be allowed to render work between ten o'clock in the evening and six o'clock in the morning of the following day.

SEC. 45. *Prohibition Against Work to be Undertaken.* Worker of minor age shall not be allowed to render work beyond their mental and physical capabilities.

SEC. 46. *Prohibition Against Bonded Labor.* A worker shall not be allowed to use his/her future services as collateral for any loan or advances made or to be made by said worker with the employer. Likewise, no employer shall be allowed to bind the worker to his/her continued employ as a form of payment for any loan or advances which he/she may have made with the employer. Should there be an outstanding loan incur and he/she decides to unilaterally terminate the contract of employment, said loan or advance shall be paid by him/her to the employer under terms and conditions specified in a duly executed promissory note between parties.

SEC. 47. *Prohibition Against Labor Sub-Contracting.* In no instance shall the employer sub-contract the services of a worker to any third party, unless such activity falls within the purview of an employment arrangement for which the necessary permits and licenses had been priorly secured.

SEC. 48. *Prohibition Against Recruitment and Finders Fees.* Regardless of whether the worker was sourced either through an employment agency or a third party, said worker shall neither be charged nor levied a share in the recruitment fees or finder's fees by the aforementioned employment agency or third party.

SEC. 49. *Prohibition Against Hazardous Work and Conditions.* Worker of minor age shall not be employed in any hazardous work, activity or undertaking, and neither shall he/she be exposed to hazardous working conditions.

For purposes of this Section, hazardous work or conditions shall include, but not limited to the following:

(a) any work, employment or activity which exposes the worker to physical, emotional or sexual abuse;

(b) any work which involves manual handling or transport of heavy loads;

(c) any work in an unhealthy environment which exposes household helpers to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(d) any work which requires the household helper to render services for long periods of time or during late nights;

(e) any or all forms of slavery or practices similar to slavery, such as the sale and trafficking of household helpers, forced or compulsory labor, debt bondage and serfdom;

(f) any use, procuring or offering of the household helper for prostitution or pornography;

(g) any use, procuring or offering of the household helper for the commission of any offense or crime, particularly for the production and trafficking of narcotic drugs and substances as defined in the Dangerous Drugs Act;

(h) any other type of work or activity which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of the household helper; and

(i) any other type of work; activity, condition or undertaking that may be hereinafter be defined as hazardous by the Department of Labor and Employment.

SEC. 50. *Prohibition Against Interference and Coercion.* Any person is prohibited from committing any of the following acts of interference and coercion:

(a) To prevent a worker from upholding his/her other basic rights;

(b) To prevent workers from joining or assisting organizations or unions for purposes not contrary to law, in order to defend and protect their mutual interest and to obtain redress of grievances through peaceful concerted efforts;

(c) To prevent a worker from carrying out his/her duties and functions in an organization or union, or to penalize the same for any lawful action performed in that capacity;

(d) To make calculated harassment and interference with the intention of intimidating or preventing the social worker from performing his/her duties and functions;

(e) To make calculated harassment against, or to transfer, penalize or terminate the services of a worker who is carrying out his/her function or role for and in behalf of his/her employer; and

(g) To perform acts calculated to diminish the independence and freedom of a social worker's union or organization to direct its own affairs.

Chapter V

Rights and Benefits of Employed IS Workers

SEC. 51. *Right to Wages Earned.* The employer shall pay directly to the worker of minor age, any and all wages, remuneration or compensation earned by him/her during the period of his/her employment.

No parent, guardian or relative shall be allowed to borrow against the compensation of the his/her relative-worker of minor age without the express written consent of the concerned relative-worker. Neither shall the worker of minor age be mandated to work in payment of a loan or liability incurred by a parent, guardian or relative.

SEC. 52. *Right to Privacy and Confidentiality.* The employer shall respect the privacy of his/her worker during the course of the latter's rest periods. This right to privacy shall extend to any and all forms of personal communications, including letters of correspondence issued or received, and be allowed communications coursed through the private telephone of the employer: *Provided*, That any additional expense incurred in the course of communication shall be borne by the worker and shall be deducted, after the employer's due notice to the worker of the amount incurred due to specific reason/s, from the receivable wage of the worker.

The State, further, guarantees the protection of the right of the worker to communicate with relatives and other persons and to receive visitors subject to reasonable limits prescribed in the employment contract agreed and entered into by both the employer and the worker.

The employer shall allow the worker access to outside communication, both through letter or the private telephone of the household, especially in instances of personal or family emergencies: *Provided*, that costs incurred in making the telephone call shall be for the account of the worker.

SEC. 53. *Access to Education and Training.* A worker shall not be deprived of formal or non-formal education. In cases where he/she is productively employed, he/she shall be allowed to attend or pursue literacy programs during day-off or in any other time with the consent of the employer.

The DECS or CHED, whichever office is applicable, shall extend its services of Study-Now, Pay-Later Program to the worker in the informal sector.

The employer may also extend scholarship programs to a worker and be reimbursed out of deductions from the worker's monthly compensation which shall, at all times, be no greater than fifty (50.0%) percent of the worker's monthly compensation. The time spent by a worker during the conduct of the said education or training, including the time spent going to and coming from the training shall be counted as part of the worker's hours of work.

SEC. 54. Access to Lawful Third-Party Mediation. The employer shall provide all worker the names, addresses and telephone numbers of the designated liaison offices of the following:

- (a) DTI;
- (b) DOLE;
- (c) the Barangay office where he/she is productively working; and,
- (d) duly registered non-government organizations accredited to mediate in disputes of their sector.

The employer shall further guarantee the worker access to all means of communication for the purpose of contacting any of the above-enumerated institutions.

SEC. 55. Provision of Basic Necessities. The employer shall provide for the basic necessities of a live-in worker which shall include:

- (a) A minimum of three (3) full meals per day;
- (b) Humane, private and safe sleeping quarter;
- (c) Emergency medical support and assistance;
- (d) A safe and non-health hazard workplace;

In no instance shall the employer be allowed to withdraw or hold in abeyance the provision of these basic necessities as punishment or disciplinary action to be meted out to the worker.

SEC. 56. Normal Hours of Work. Cognizant of the peculiarities of the relationship between the employer and the IS worker, the normal hours of work shall be set at ten (10) hours per day, exclusive of one (1) hour breaks each for breakfast, lunch and dinner. The worker shall be allowed at least eight (8) hours of continuous rest per day otherwise any work done by him/her beyond the normal hours of work per day shall be duly compensated.

SEC. 57. Regular Working Days. No worker shall render work for more than six (6) days per week. While the specific day of the week set aside as rest day for the worker may be stipulated in the employment contract, the same may be changed for another day of the week upon the mutual agreement of the employer and the worker as the exigencies of the work may dictate.

SEC. 58. Longevity pay. A longevity pay equivalent to five *per centum* (5%) of his/her latest monthly basic pay shall be paid to a worker for every two (2) years of continuous and satisfactory service rendered.

SEC. 59. Clothing Allowance. A worker shall be entitled to a minimum of One Thousand pesos (P1,000.00) clothing allowance annually: *Provided*, That the worker has

rendered at least one (1) year of continuously service in the employment he/she is currently in.

SEC. 60. *Vacation Leaves.* A worker who is employed for one (1) year shall be entitled to a fourteen (14) day vacation leave with pay, in addition to the one (1) day per week designated as the rest day. Said leave may only commence at the end of the first year of employment, and shall not cumulate from year to year.

SEC. 61. *Maternity Benefits.* A female worker who is employed for one (1) year shall be entitled to maternity benefits.

SEC. 62. *13th Month Pay.* A worker shall be entitled to a 13th month pay equivalent to one (1) month's basic salary which shall be paid to the worker not later than the 16th of December of every year: *Provided, however,* That the worker has reached the required minimum residency. Otherwise, the worker shall be entitled to receive a 13th Month Pay on pro-rated basis

SEC. 63. *Allowing subcontracting.* A worker may enter into subcontractual employment or may accept subcontractual jobs from any other enterprise or firm joining or may join productive employment through a cooperative or consortium: *Provided, however,* That the enterprise or firm or cooperative or consortium shall be mandated to implement the specific provisions of this Act in regard to worker's benefits: *Provided, further,* That where a worker subcontracts jobs between and among other worker providing for the benefits due him/her shall not be obligated upon the party who contracted the job.

SEC. 64. *Pre-Termination of Contract.* The employer may, at his/her own discretion, terminate the services of the worker: *Provided, however,* That said employer provides the worker with at least fifteen (15) days notice of termination and termination pay equivalent to at least one half (1/2) month's salary. In lieu of the fifteen (15) day notice of termination, the employer may immediately terminate the services of the worker: *Provided,* That said employer provides the worker termination pay equivalent to one (1) month's salary

The employer may, for valid or just cause of loss of confidence, terminate the services of the worker prior to the expiration of the contract without indemnifying the latter with termination pay.

Should the worker decide, on his/her own volition, to unilaterally leave the workplace prior to the expiration of the contract period, said worker shall forfeit any separation pay that may be due him/her.

SEC. 65. *Extent of Duty.* The employer shall not require a worker to perform any task or work outside the assigned workplace for the service or benefit of another without the latter's consent and payment of just compensation.

SEC. 66. *Automatic Salary Increases.* The contract of employment executed by and between the employer and the worker shall provide for an annual salary increase, the amount of which shall be determined by mutual agreement of the parties.

SEC. 67. *Deployment Expenses.* Deployment expenses of a worker, including transportation and agency fees, shall be shouldered by the employer.

TITLE III

FINAL PROVISIONS

SEC. 68. *Penal Provision.* Any person who shall willfully interfere with, restrain or coerce a social worker in the exercise of his/her rights or shall in any manner commit any act in violation of any of the provision of this Act shall, upon conviction, be punished by a fine of not less than Ten thousand pesos (P10,000.00) but not more than Twenty thousand pesos (P20,000.00) or imprisonment of one (1) year to six (6) years or both fine and imprisonment at the discretion of the court.

If the offender is a public official, the court in addition to the penalties provided in the preceding paragraph, may impose the additional penalty of disqualification from public office.

In the case of a private institution/company found to be violating any provision of this Act, it shall be subject to a penalty ranging from suspension of license to revocation of such, at the discretion of the court.

SEC. 69. *Separability Clause.* If any provision of this Act is declared unconstitutional or invalid, the provisions not affected shall continue to be in full force and effect.

SEC. 70. *Repealing Clause.* All laws, decrees, orders, rules and regulations or other issuances inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 71. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation or the *Official Gazette*, whichever comes first.

Approved.