

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 2728

Introduced by Partido ng Manggagawa Representative
Honorable Renato "Ka Rene" B. Magtubo

EXPLANATORY NOTE

The Philippine Constitution has numerous provisions recognizing labor as an important social partner in the development of the nation. In Article II Section 18, it declares that "The State affirms **labor as a primary social economic force**. It shall **protect the rights of the workers and promote their welfare** (emphasis ours)." It is further affirmed in Article XIII Section 3 that, "The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike, in accordance with law. They shall be entitled to **security of tenure, humane conditions of work, and a living wage** (emphasis ours). They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law."

It is also stipulated that the aim and reason for the justification of labor laws is social justice, as in Article II Section 10 of the Constitution -- "The State shall promote social justice in all phases of national development."

Social justice is best defined by the late Jose P. Laurel in *Calalang vs. Williams* (70 Phil. 726) as "the promotion of the welfare of all the people, the adoption by the Government of measures calculated to insure economic stability of all the component elements of society through the maintenance of proper economic and social equilibrium in the interrelations of the members of the community, constitutionally,

production cost, purportedly to be competitive and viable. Reports say 52.2 % of 33,907 enterprises inspected by DOLE inspectors in 2001 violate labor standards. These led to labor cases which clogged the already congested quasi-judicial courts of the Department of Labor and Employment.

Industrial relations are jeopardized with labor at the losing end. The primary economic force is being sacrificed in the altar of globalization to save the interests of the owners of capital. The perceived balance between labor and capital, supposedly protected by the Code, has tilted tremendously in favor of corporate interests. Such trend has rendered the present Code not only inadequate, but also irrelevant, especially in so far as the interests of the working people are concerned.

Globalization as an economic system contravenes the stated principles on labor rights and welfare. Politically, it negates the State's responsibility to its citizenry specially to uphold and defend labor rights and welfare. It must be noted that these workers are also consumers and taxpayers - the very market who patronize and buy the produce of capitalists. If they are disregarded in the political and economic equation, the development of this country we envisioned will remain a dream.

Herein lies the imperative to revise, adjust and propose changes in the Code due to, first, the inability of the existing laws to protect hard won labor rights and welfare and, second, the capacity of government to implement regulations.

Presently, there are 35 Million Filipinos in the labor force. If we are to consider them and their dependents - the toiling masses - we can clearly imagine the multitude of people whom we have sworn to serve and protect. For democracy to be truly exercised, labor should be empowered.

The main objective of this omnibus amendment to the Labor Code is to provide ample protection to the working men and women under the present neo-liberal economic regime. A salient feature of this Proposed New Labor Code is its applicability not only to workers from the formal sector but also to those from informal and the public sectors, to the *kasambahay* or the household helpers, persons with disability and Overseas Filipino Workers (OFWs) or migrant workers.

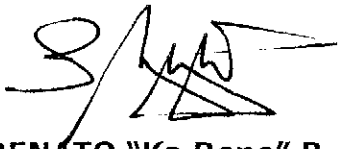
It also prescribes a wage fixing mechanism through the establishment of a National Living Wage Commission which will serve as a permanent machinery to determine the constitutionally-mandated living wage and to penalize those who commit unfair labor practices. Many provisions of the present code are amended to ensure that it will be child-friendly, gender-sensitive and it can empower workers to exercise their basic rights as enshrined in the Constitution.

The TESDA Law was integrated in the Book II (Conditions of Employment) under Human Resource Development. The (NCMB) National Conciliation and Mediation Board's function was integrated to the (BLR) Bureau of Labor Relations.

The (NLRC) National Labor Relations Commission's will be transformed into a Labor Court whose creation is proposed in a soon-to-follow companion bill.

This bill, when promulgated into law will reinforce the exercise of the workers' right to security of tenure, the right to organize and / or to unionize, the right to collectively bargain, the right to strike and the right of workers to a living wage as truly intended by the framers of the Constitution.

With the conviction that the welfare of the primary social economic force is the priority of the members of this august assembly, the timely passage of this bill is earnestly desired.



RENATO "Ka Rene" B. MAGTUBO

Partylist Representative
Partido ng Manggagawa

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2 **HOUSE OF REPRESENTATIVES**
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7
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9

10 Sponsored by Partido ng Manggagawa Representative
11 Honorable Renato B. Magtubo

12
13 **“AN ACT**
14 **ESTABLISHING THE NEW LABOR CODE OF THE PHILIPPINES, AMENDING FOR**
15 **THE PURPOSE PRESIDENTIAL DECREE 442, OTHERWISE KNOWN AS THE LABOR**
16 **CODE OF THE PHILIPPINES, APPROPRIATING FUNDS THEREFORE, AND FOR**
17 **OTHER PURPOSES”**

18
19 *Be it enacted by the Senate and the House of Representatives of the Philippines in Congress*
20 *assembled:*

21
22 **PRELIMINARY TITLE**
23 **GENERAL PROVISIONS**
24

25 Article 1. **TITLE.** - This Act shall be known as the ***“New Labor Code of the Philippines.”***

26
27 **Article 2. DECLARATION OF BASIC POLICY.** - ***It shall be the policy of the State:***

- 28
29 **(a) *To afford full protection to labor, local and overseas, organized and unorganized;***
30 **(Migrant Worker Act—R.A. No. 8042: italics incorporated to Art. 3 of LC)**
31
32 **(b) To protect and promote full employment and equality of employment opportunities for all**
33 **regardless of sex, race, *political or religious beliefs and gender preference*; (PM proposal:**
34 **italics incorporated to Art. 3 of LC)**
35
36 **(c) *To guarantee the rights of all workers to self-organization, collective bargaining and***
37 ***negotiations, and peaceful concerted activities including the right to strike in accordance***
38 ***with law*; (PM Proposal: italics incorporated to Art. 3 of LC)**
39
40 **(d) To ensure the workers’ right to security of tenure, humane conditions of work *and a living***
41 ***wage*; (PM Proposal: italics incorporated to Art. 3 of LC)**
42
43 **(e) *To regulate the relations between workers and employer, recognizing the right of labor to***
44 ***its just share in the fruits of production returns on investments and for expansion and***
45 ***right of enterprises to reasonable returns on investment and to expansion and growth;***
46 **(Art. XIII, Sec. 3 of the 1987 Constitution: italics incorporated to Art. 3 of LC)**
47

- 1 (f) *To recognize and respect the fundamental equality before the law of women and men and*
2 *the significant role of women in nation building;* (Migrant Worker Act—R.A. No. 8042:
3 italics incorporated to Art. 3 of LC)
4
5 (g) *To guarantee workers' free access to the courts and quasi-judicial bodies and adequate*
6 *legal assistance shall not be denied to any worker by reason of poverty;* (Migrant Worker
7 Act—R.A. No. 8042: italics incorporated to Art. 3 of LC)
8
9 (h) *To intervene in the exercise of its police power only to protect the plight of labor.*
10 *Protection of labor for purposes of the exercise of police power of the state shall mean*
11 *protection of labor.* (PM proposal: italics incorporated to Art. 3 of LC)
12

13 Article 3. **CONSTRUCTION IN FAVOR OF LABOR.** - All doubts in the implementation and
14 interpretation of the provisions of this code, including its implementing rules and regulations, shall
15 be resolved in favor of labor.
16

17 **Article 4. APPLICABILITY.** - All rights and benefits granted to workers under this code shall
18 except as may otherwise be provided herein apply alike to all workers, *in private sector.* (PM
19 proposal: italics incorporated to Art. 6 of LC)
20

21 *The terms and conditions of employment of all government employees, including*
22 *employees of government-owned and controlled corporations with original charters shall be*
23 *governed by the civil service law rules and regulations. Provided, that on matters of the rights to*
24 *organize, unionize and bargain collectively, the provision of this code shall apply; provided,*
25 *further, that all employees in the civil service shall have the right to engage in peaceful,*
26 *consented activities including the right to strike in accordance with the provision of this Code.*
27 (PM proposal: italics incorporated to Art. 6 of LC)
28
29

30 **BOOK I**
31 **PRE-EMPLOYMENT**
32

33 Article 5. **STATEMENT OF POLICY.** – It is the policy of the State to:
34

- 35 (a) *Promote and maintain a state of full employment and equality of employment opportunities*
36 *for all through active industrial policy, balanced agricultural development, unified human*
37 *resources development and enhanced employment facilitation assistance to job seekers;* (PM
38 proposal)
39
40 (b) *Uphold the dignity of all citizens whether in country or overseas in general, and Filipino*
41 *migrant workers, in particular.* (Migrant Worker Act)
42
43 (c) *Protect labor, local and overseas, organized and unorganized. Towards this end, the State*
44 *shall provide adequate and timely social, economic and legal services to Filipino migrant-*
45 *workers;* (Migrant Worker Act)
46
47
48 (d) Protect every citizen desiring to work locally or overseas by securing for him/*her* the best
49 possible terms and conditions of employment;
50

- 1 (e) *The State shall not promote overseas employment as a means to sustain economic growth*
2 *and achieve national development. The existence of the overseas employment program rests*
3 *solely on the assurance that the dignity and fundamental human rights and freedom of the*
4 *Filipino citizen, shall not, at anytime be compromised or violated. Towards this end, the State*
5 *shall continuously create local employment opportunities and promote the equitable*
6 *distribution of wealth and benefits of the development;* (Migrant Worker Act)
7
8 (f) *Affirm the fundamental equality before the law of women and men and the significant role*
9 *of women in nation building by recognizing the contribution of women workers and their*
10 *particular vulnerabilities. The State thereby shall apply gender sensitivity criteria in the*
11 *formulation and implementation of policies and programs affecting migrant workers and the*
12 *composition of bodies tasked for the welfare of migrant workers;* (Migrant Worker Act)
13
14 (g) *Ensure the rights and interest of distressed overseas Filipinos, in general and Filipino*
15 *migrant workers in particular, documented or undocumented, shall be adequately protected*
16 *and safeguarded;* (Migrant Worker Act)
17
18 (h) *Recognize the right of Filipino workers and all overseas Filipinos to participate in the*
19 *democratic decision making process of the State and to be represented in institutions relevant*
20 *to overseas employment and its recognized aid guaranteed;* (Migrant Worker Act)
21
22 (i) *Government fees and other administrative costs of recruitment, introduction, placement and*
23 *assistance to migrant workers shall be free of charge;* (Kanlungan proposal)
24
25 (j) Facilitate a free choice of available employment by persons seeking work and regulate the
26 movement of workers in conformity with the national interest;
27
28 (k) Regulate the employment of aliens, including the establishment of a registration and/or work
29 permit system;
30
31 (l) Strengthen the network of public employment offices and rationalize the participation of the
32 private sector in the recruitment and placement of workers, locally and overseas, to serve
33 national development objectives;
34
35 (m) *Ensure careful selection of Filipino workers for overseas employment based on the*
36 *possession of skills in order to appropriately deploy workers to suitable jobs where they have*
37 *acquired the proper qualifications.* (PM proposal: all italics incorporated to Art. 12 of LC)
38

39 **TITLE I**
40 **RECRUITMENT AND PLACEMENT OF WORKERS**

41
42 **CHAPTER I**
43 **GENERAL PROVISIONS**
44

45 **Article 6. DEFINITION OF TERMS. -**
46

- 47 a) **“Worker”** means any member of the labor force, whether employed or unemployed.
48
49 b) **“Recruitment and Placement”** refers to any act canvassing, enlisting, contracting,
50 transporting, utilizing, hiring, or procuring workers, and includes referrals, contact

services, promising or advertising for employment, locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

- c) **“Private Fee-charging Employment Agency”** means any person or entity engaged in the recruitment and placement of workers for a fee which is charged, directly or indirectly, from the workers or employees or both.
- (d) **“Plan” means National employment plan.** (PM proposal)
- (e) **“Human Resources Development” means the strategy program of upgrading the capacity of workers through technical and skills development, internship programs and enterprise-based education and training of the existing workforce.** (PM proposal)
- (f) **“Active Industrial Policy” means the promotion of rapid industrial growth for job creation purposes with the participation of the government, private sector and the workers and their organizations to ensure full employment providing decent work for all Filipinos;** (PM proposal)
- (g) **“Migrant workers” refers to a person who is to be engaged or has been engaged in a remunerated sea and/or land-based activities in a state or flag-state of which she/he is not a legal resident or national. The term shall be used interchangeably with overseas Filipino workers.** (Migrant Worker Act)
- (h) **“Gender Sensitivity” shall mean cognizance of the inequalities prevalent in society between women and men and the commitment to address issues with concern for the respective interests of the sexes.** (Migrant Worker Act)
- (i) **“Overseas Filipino” refers to dependents of migrant workers and other Filipino nationals and abroad.** (Migrant Worker Act)
- (j) **“Authority”** means a document used by the Department of Labor authorizing a person or association to engage in recruitment and placement activities as a private recruitment entity. (PM proposal: italics incorporated to Art. 13 of LC)

Article 7. EMPLOYMENT PROMOTION. - The Secretary of the Department of Labor and Employment in coordination with the Local Government Units shall have the power and authority to:

- (a) **Initiate, organize and maintain employment offices in addition to the existing employment offices under the Department of Labor as the need arises.**
- (b) **Organize and establish a nationwide job clearance and labor market information system to inform applicants registering with a particular employment office of job opportunities in other parts of the country as well as job opportunities abroad and promote jobs and skills matching;**

- 1 (c) *Develop and organize a program that will facilitate occupational, industrial and*
2 *geographical mobility of labor and provide assistance in the relocation of workers from*
3 *one area to another;*
4
5 (d) *Require any person, establishment, organization or institution to submit such employment*
6 *information as may be prescribed by the Secretary of Labor; and*
7
8 (e) *Formulate a National Employment Plan and recommend appropriate employment*
9 *policies, strategies and measures to maximize employment based on active industrial*
10 *policy, balanced agricultural development, unified human resource development and*
11 *enhanced employment facilitation assistance. (Art. 9, COCLE: formerly Art. 14 of LC)*
12

13 **Article 8. BUREAU OF LOCAL EMPLOYMENT.** – *The Bureau of Local Employment shall be*
14 *primarily responsible for assisting the Secretary of Labor and Employment in developing and*
15 *monitoring a comprehensive national employment plan and its implementing programs. (Art. 10,*
16 *COCLE: based on E.O. 797, Sec.3)*
17

18 **Article 9. PRIVATE RECRUITMENT.** – *Except as provided in Chapter II of this Title, no person*
19 *or entity, other than the public employment offices, shall engage in the recruitment and*
20 *placement of workers. (Art. 11, COCLE: formerly Art. 16 of LC)*
21

22 **Article 10. PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION.** – *The Philippine*
23 *Overseas Employment Administration or POEA shall have the following powers and functions:*
24

- 25 (a) *Regulate private sector participation in the recruitment and overseas placement of*
26 *workers by setting up a licensing and registration system;*
27
28 (b) *Formulate and implement, in coordination with appropriate entities concerned, when*
29 *necessary, a system for promoting and monitoring the overseas employment of*
30 *Filipino workers taking into consideration their welfare and domestic manpower*
31 *requirements;*
32
33 (c) *Protect the rights of Filipino workers for overseas employment to fair and equitable*
34 *recruitment and employment practices and ensure their welfare;*
35
36 (d) *Exercise original and exclusive jurisdiction to hear and decide all claims arising out*
37 *of an employer-employee relationship or by virtue of any law or contract involving*
38 *Filipino workers for overseas employment including the disciplinary cases; and all*
39 *pre-employment cases which are administrative in character involving or arising out*
40 *of violation or requirement laws, rules and regulations, or violation of the conditions*
41 *for issuance of license or authority to recruit workers. All prohibited recruitment*
42 *activities and practices which are penal in character as enumerated and defined under*
43 *and by virtue of existing laws, shall be prosecuted in the regular courts in close*
44 *coordination with the appropriate Departments and agencies concerned.*
45
46 (e) *Maintain a registry of skills for overseas placements;*
47
48 (f) *Recruit and place workers to service the requirement for trained and competent*
49 *Filipino workers by foreign governments and their instrumentalities and such other*
50 *employers as public interest may require consistent with Section 4 of Republic Act No.*

1 8042; *Provided, that no Filipino worker shall be deployed to countries that have a*
2 *track record of violating the rights of Migrant Workers;*

3
4 (g) *Promote the development of skills and careful selection of Filipino workers for*
5 *overseas employment.*

6
7 (h) *Undertake overseas market development activities for placement of Filipino workers;*

8
9 (i) *Secure the best terms and conditions of employment of Filipino contract workers and*
10 *ensure compliance therewith;*

11
12 (j) *Promote and protect the well-being of Filipino workers overseas;*

13
14 (k) *Develop and implement programs for the effective monitoring of returning contract*
15 *workers, promoting their re-training and re-employment or their smooth-re-*
16 *integration into the mainstream of the national economy in coordination with other*
17 *government agencies;*

18
19 (l) *Institute a system for ensuring fair and speedy disposition of cases involving violation*
20 *of recruitment rules and regulations as well as violation of terms and conditions of*
21 *overseas employment;*

22
23 (m) *Establish a system for speedy and efficient enforcement of decisions laid down*
24 *through the exercise of its adjudicatory function;*

25
26 (n) *Establish and maintain close relationship and enter into joint projects with the*
27 *Department of Foreign Affairs, Philippine Tourism Authority, Manila International*
28 *Airport Authority, Department of Justice, Department of Budget and Management*
29 *and other relevant government entitles, in the pursuit of its objectives. The*
30 *Administration shall also establish and maintain joint projects with private*
31 *organizations, domestic or foreign, in the furtherance of its objectives. (Art. 12,*
32 *COCLE: based on E.O. 797: formerly Art. 17 of LC)*

33
34 Article 11. **BAN ON DIRECT-HIRING.** – No employer may hire a Filipino worker for overseas
35 employment except through the Boards and entities authorized by the Secretary of Labor and
36 Employment. Direct-hiring by members of the diplomatic corps, international organizations and
37 such other employers as may be allowed by the Secretary of Labor is exempt from this provision.

38
39 *Notwithstanding the provisions of this Article, the government in pursuit of the national*
40 *interest or when public welfare so requires, may, at anytime, terminate or impose a ban on the*
41 *deployment of migrant workers. The government shall only allow deployment of overseas*
42 *Filipino workers to countries with the following conditions:*

43
44 (a) *It has existing labor and social laws protecting the rights of migrant workers;*

45
46 (b) *It is a signatory of multilateral conventions, declarations of resolutions relating to the*
47 *protection of migrant workers;*

48
49 (c) *It has concluded a bilateral agreement or arrangement with the government protecting*
50 *the rights of overseas Filipino workers; and*

(d) *In addition, the state shall deploy seafarers only to foreign vessels:*

- (i) *That are duly registered in a state;*
- (ii) *Whose owner is duly accredited with the international monitoring organization; and*
- (iii) *Those companies that comply with international standards.* (Migrant Worker Act: italics incorporated to Art. 18 of LC)

Article 12. NATIONAL SEAFARERS OFFICE. - *A National Seafarers Office is hereby created under the POEA, which shall have the following powers and functions:*

- a) *To develop an integrated maritime human resource development and placement program for Filipino seafarers here and overseas;*
- b) *To develop in coordination with other agencies involved in the maritime industry, a one-stop shop for the licensing and deployment of Filipino seafarer.* (Art. 14, COCLE: based on Sec. 10 of Migrant Worker Act repealing E.O. No. 797(b))

Art. 13. FOREIGN SERVICE ROLE AND PARTICIPATION. - *To provide ample protection to Filipinos abroad, the labor attaches, the labor reporting officers duly designated by the Secretary of the Department of Labor and Employment and the Philippine diplomatic or consular officials, shall even without prior instruction or advise from the home office, exercise the power and duty to:*

- (a) *Provide all Filipino workers within their jurisdiction, assistance on all matters arising out of employment;*
- (b) *Insure that Filipino workers are not exploited or discriminated against;*
- (c) *Verify and certify as requisite to authentication that the terms and conditions of employment in contracts involving Filipino workers are in accordance with the Labor Code and rules and regulations of the Philippine Overseas Employment Association (POEA);*
- (d) *Make continuing studies, or researches and recommendations on the various aspects of the employment market within their jurisdiction;*
- (e) *Gather and analyze information on the employment situation and its probable trends, and to make such information available; and*
- (f) *Perform such other duties as may be required of them from time to time.* (Art. 15, COCLE)

Article 14. AGENCIES TO ISSUE RULES AND COLLECT FEES. – *The agencies involved in the recruitment and placement of workers shall issue appropriate rules and regulations to carry out their functions. They shall have the power to impose and collect fees from the employers concerned, which shall be deposited to the respective account of such Agencies and be used by them exclusively to promote their objectives.* (Art. 17, COCLE)

CHAPTER II
REGULATIONS OF RECRUITMENT AND PLACEMENT ACTIVITIES

Article 15. **PRIVATE SECTOR PARTICIPATION IN THE RECRUITMENT AND PLACEMENT OF WORKERS.** - Pursuant to national development objectives, and in order to harness and maximize the use of private sector resources and initiative in the development and implementation of a comprehensive employment program, the private employment sector shall participate in the recruitment and placement of workers, locally and overseas under such guidelines, rules and regulations as may be issued by the Secretary of the Department of Labor and Employment.

Article 16. **TRAVEL AGENCIES PROHIBITED TO RECRUIT.** - Travel agencies and sales agencies of airline companies are prohibited from engaging in the business of recruitment and placement of workers for overseas employment whether for profit or not.

Article 17. **CITIZENSHIP REQUIREMENT.** - Only Filipino citizens or corporations, partnerships or entities at least 75 percent of authorized and capital stock of which is owned and controlled by Filipino citizens shall be permitted to participate in the recruitment and placement of workers locally or overseas.

Article 18. CAPITALIZATION AND LICENSING. – *All applicants of the Authority to hire or renewal of license to recruit are required to have such substantial capitalization of at least ten million pesos (P10,000,000), duly verified labor placement contract and requirements provided under this Code and other related laws and regulations.*

No agency shall be denied license unless the said agency is unable to meet the required capitalization and other conditions or requirements set by the Department of Labor and Employment and other agencies concerned. (PM proposal: formerly Art. 28 of LC)

Article 19. **NON-TRANSFERABILITY OF LICENSE OR AUTHORITY.** - No license or authority shall be used directly or indirectly by any person other than the one in whose favor it was issued at any place other than that stated in the license or authority nor may such license or authority be transferred, conveyed or assigned to any other person or entity. Any transfer of business address, appointment or designation of any agent or representative including the establishment of additional offices anywhere shall be subject to the prior approval of the Department of Labor and Employment.

Recruitment activities shall be conducted under the supervision of the Department of Labor and Employment. Recruitment of workers cannot lawfully be undertaken on a house-to-house basis, in residences or secluded places. (PM proposal: italics incorporated to Art. 29 of LC)

Article 20. **REGISTRATION FEES.** – The Secretary of the Department of Labor and Employment shall promulgate a schedule of fees for the registration of applicants for license or authority.

Article 21. **BONDS.** – *All applicants for license or authority shall post cash and safety bonds of not less than five million pesos (P5,000,000) upon the effectivity of this Code, and any increase of the said bond shall be determined by the Secretary of the Department of Labor and Employment, every three (3) years thereafter, to guarantee compliance with prescribed recruitment procedures,*

1 *rules and regulations, terms and conditions of employment as may be appropriate.* (PM proposal:
2 italics incorporated to Art. 31 of LC)

3
4 **Article 22. FEES TO BE PAID BY THE WORKERS.** – Any person applying to a private
5 recruitment agency shall not be charged any fee except for the acquisition and completion of his/her
6 requirements pertinent to his/her application for employment abroad, until he has obtained and has
7 actually commenced employment. Such fees paid by applicant worker shall at all times be covered
8 by an appropriate receipt clearly indicating the amount paid. The Secretary of the Department of
9 Labor and Employment shall promulgate a schedule of allowable fees.

10
11 **Article 23. REPORTS ON EMPLOYMENT STATUS.** - All person or entities within the
12 coverage of this title shall submit a report on the status of employment, including job vacancies,
13 details of job requisitions, separation from jobs, wages, other terms and conditions and other
14 employment data.

15
16 **Article 24. PROHIBITED PRACTICES.** - It shall be unlawful for any individual, entity, licensee
17 or holder of authority:

- 18
19 (a) To charge or accept directly or indirectly any amount greater than that specified in the
20 schedule of allowable fees prescribed by the Secretary of the Department of Labor and
21 Employment, or to make a worker pay any amount greater than that actually received by
22 him as a loan or advance;
23
24 (b) To furnish or publish any false notice, testimony, information or document in relation to
25 recruitment or employment;
26
27 (c) To give any false notice, testimony, information or document or commit any act of
28 misrepresentation for the purpose of securing a license or authority under this Code;
29
30 (d) To induce or attempt to induce a worker already employed to quit his employment in order
31 to offer him to another unless the transfer is designed to liberate him from oppressive terms
32 and conditions of employment;
33
34 (e) To influence or to attempt to influence any person or entity not to employ any worker who
35 has not applied for employment through his agency;
36
37 (f) To engage in the recruitment or placement of workers in jobs harmful to public health or
38 morality or to the dignity of the Republic of the Philippines;
39
40 (g) To obstruct or attempt to obstruct inspection by the Secretary of the Department of Labor
41 and Employment or by his duly authorized representatives;
42
43 (h) To fail to file reports on the status of employment, placement vacancies remittance of
44 foreign exchange earnings, separation from jobs, departure and such other matters or
45 information as may be required by the Secretary of the Department of Labor and
46 Employment;
47
48 (i) To substitute or alter employment contracts approved and verified by the Department of
49 Labor and Employment from the time of actual signing of the parties up to the period of

1 expiration of the same without the approval of the Secretary of the Department of Labor and
2 Employment;

3
4 (j) To become an officer or member of the board of any corporation engaged in the travel
5 agency business or to be directly or indirectly in the management of a travel agency;

6
7 (k) To withhold or deny travel documents from applicant workers before departure for monetary
8 or financial considerations other than those authorized under this Code and its implementing
9 rules and regulations.

10
11 Article 25. **SUSPENSION AND/OR CANCELATION OF LICENSE.** - The Secretary of the
12 Department of Labor and Employment shall have the power to suspend or cancel ***and in both***
13 ***instances impose a fine***, any license or authority to recruit employees for overseas employment for
14 violation of rules and regulations issued by the Secretary of the Department of Labor and
15 Employment and the Philippine Overseas Employment Administration or for violation of the
16 provisions of this and other applicable laws. (Art. 28, COCLE: italics incorporated to Art. 35 of LC)

17
18 Article 26. **REGULATORY POWER OF THE SECRETARY OF LABOR.** - The Secretary of
19 the Department of Labor and Employment shall have the power to restrict and regulate the
20 recruitment and placement activities of all agencies within the coverage of this title and is hereby
21 authorized to issue orders and promulgate rules and regulations to carry out the objectives and
22 implement the provisions of this Title.

23
24 Article 27. **VISITORIAL POWER.** - The Secretary of the Department of Labor and Employment
25 or his duly authorized representatives may at any time inspect the premises, books and accounts and
26 records of any person or entity covered by this Title, require it to submit regularly on prescribed
27 forms, and act on violations of any provisions of this Title.

28
29 Article 28. **ILLEGAL RECRUITMENT.** - ***Any act of canvassing, enlisting, contracting,***
30 ***transporting, utilizing, hiring or procuring workers and includes referring contract services***
31 ***promising or advertising for employment locally or abroad, on board foreign vessels whether or***
32 ***not when undertaken by a non-licensee or non holder of authority contemplated under Article 6***
33 ***(j) of this Code; Provided, that any such licensee or non-holder who, in any manner offers or***
34 ***promises for a fee employment locally or abroad or on board foreign vessels to two or more***
35 ***persons shall be deemed so engaged. It shall likewise include the following acts, whether***
36 ***committed by any person, whether a non-licensee or holder of authority:***

37
38 (a) ***To charge or accept directly any amount greater than that specified in the schedule of***
39 ***allowable fees prescribed by the Secretary of the Department of Labor and Employment,***
40 ***or to make any worker pay any amount greater than that actually received by him as a***
41 ***loan or advance;***

42
43 (b) ***To publish or furnish any false notice or information or document in relation to***
44 ***recruitment or employment;***

45
46 (c) ***To give any false notice, testimony, information or document or commit any act of***
47 ***misrepresentation for the purpose of securing a license or authority under this Labor***
48 ***Code;***
49

- 1 *(d) To induce or attempt to induce a worker already employed to quit his employment in order*
2 *to offer him to another unless the transfer is designed to liberate him from oppressive*
3 *terms and conditions of employment;*
4
- 5 *(e) To influence or to attempt to influence any person or entity not to employ any worker who*
6 *has not applied for employment through his/her agency or who contacted unions and*
7 *organizations for support;*
8
- 9 *(f) To engage in the recruitment or placement of workers in jobs harmful to public health or*
10 *morality or to the dignity of the Republic of the Philippines;*
11
- 12 *(g) To obstruct or attempt to obstruct inspection by the Secretary of the Department of Labor*
13 *and Employment or by his duly authorized representatives;*
14
- 15 *(h) To fail to file reports on the status of employment, placement vacancies remittance of*
16 *foreign exchange earnings, separation from jobs, departure and such other matters or*
17 *information as may be required by the Secretary of the Department of Labor and*
18 *Employment;*
19
- 20 *(i) To substitute or alter employment contracts approved and verified by the Department of*
21 *Labor and Employment from the time of actual signing thereof the parties up to and the*
22 *periods expiration of the same without the approval of the Department of Labor and*
23 *Employment;*
24
- 25 *(j) For an officer or agent of a recruitment or placement agency to become an officer or*
26 *member of the Board of any corporation engaged in travel agency or to be directly or*
27 *indirectly in the management of a travel agency;*
28
- 29 *(k) To withhold or deny travel documents from applicant workers before departure for*
30 *monetary of financial considerations other than those authorized under this Code and its*
31 *implementing rules and regulations;*
32
- 33 *(l) Failure to actually deploy, without valid reason as determined by the Department of Labor*
34 *and Employment;*
35
- 36 *(m) Failure to reimburse expenses incurred by the worker in connection with his*
37 *documentation and processing for purposes of deployment, in cases where the deployment*
38 *does not actually take place without the workers fault. Illegal recruitment when committed*
39 *by a syndicate or in large scale shall be considered an offense involving economic*
40 *sabotage;*
41
- 42 *(n) Trafficking in the form of recruitment, transfer, deployment of persons across national*
43 *boarders or on board foreign vessels for work or services or prostitution through coercion,*
44 *violence, threat of violence, abuse of authority, debt bondage, bonded labor, deception and*
45 *other forms of enticement with or without the consent of the victim. Trafficking shall be*
46 *considered an aggravating circumstance in illegal recruitment and shall merit the*
47 *maximum penalty;*
48
- 49 *(o) To make any person do any type of work without due compensation from recruiting*
50 *agents and/or recruiters with only a promise of job placement abroad or on board ships;*

1
2 (p) *To make any worker sign an addendum to their contract which specifically provides for*
3 *the worker not to join or contact any trade union or other organization when they have*
4 *employment while abroad or in the country; and*

5
6 (q) *To make any worker sign a blank contract or contract which does not fully show terms*
7 *and condition for work.*

8
9 *Illegal recruitment is deemed committed by a syndicate if carried out by a group of three*
10 *(3) or more persons conspiring or confederating with one another. It is deemed committed in*
11 *large scale if committed against three (3) or more persons, individually or as a group. Illegal*
12 *recruitment committed by a syndicate or in a large scale shall be considered an offense involving*
13 *economic sabotage.*

14
15 *The persons criminally liable for above offenses are the principals, accomplices and*
16 *accessories. In case of juridical persons, having control, management or direction of their*
17 *business shall be liable.* (Migrant Worker Act: formerly Art. 38 of LC)

18
19 Article 29. **PENALTIES.** -

20
21 (a) *Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of*
22 *not less than six (6) years and one day nor more than twelve (12) years or a fine of not*
23 *more than Two hundred thousand pesos (P200,000) nor more than five hundred thousand*
24 *pesos (P500,000);*

25
26 (b) *The penalty of life imprisonment and a fine of not less than five hundred thousand pesos*
27 *(P500,000) nor more than one million pesos (P1,000,000) shall be imposed if illegal*
28 *recruitment constitute economic sabotage; however, that the maximum penalty shall be*
29 *imposed if the person illegally recruited is less than eighteen years of age or committed by*
30 *a non-licensee or a non holder of authority;*

31
32 (c) *Any licensee or holder of authority found violating or causing another to violate any*
33 *provision of this Title or its implementing rules and regulations shall, upon conviction*
34 *thereof suffer the penalty of imprisonment of not less than two (2) years nor more than*
35 *five (5) years and a fine of not less than twenty thousand pesos (P20,000) nor more than*
36 *two hundred pesos (P200,000);*

37
38 (d) *Any person who is neither a licensee nor a holder of authority under this Title found*
39 *violating any provision thereof or its implementing rules and regulations shall upon*
40 *conviction thereof suffer the penalty of imprisonment of not less than four (4) years nor*
41 *more than eight (8) years or a fine of not less than fifty thousand pesos (P50,000) nor*
42 *more than four hundred pesos (P400,000);* (Migrant Worker Act)

43
44 (e) *If the offender is a corporation, partnership, association or entity, the penalty shall be*
45 *imposed upon the officers of the corporation, partnership, association or entity responsible*
46 *for the violation and if such officer is an alien he/she shall, in addition to the penalties herein*
47 *prescribed be deported without further proceeding;*

48
49 (f) *In every case, conviction shall cause and carry in the revocation of the license or authority*
50 *and all the permits and privileges granted such person or entity under this title and the*

forfeiture of the cash and surety bonds in favor of the Department of Labor and Employment which is authorized to use the same exclusively to promote its objectives.

Criminal action arising from illegal recruitment shall be filed with the regional trial court of the province or city where the offense was committed or where the offended party actually reside at the time of the commission of the crime. (Migrant Worker Act: formerly Art. 39 of LC)

Article 30. PRESCRIPTIVE PERIOD. – Illegal recruitment cases prescribed in five (5) years. Illegal recruitment cases involving economic sabotage prescribe in twenty (20) years. (Migrant Worker Act)

TITLE II EMPLOYMENT OF NON RESIDENT ALIENS

CHAPTER I EMPLOYMENT PERMIT OF NON-RESIDENT ALIENS

Article 31. **EMPLOYMENT PERMIT OF NON-RESIDENT ALIENS.**- Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor and Employment.

The employment permit may be issued to a non-resident alien or to applicant employer after a determination of a non-availability of a person in the Philippines who is competent, able and willing at the time of application of which the alien is desired.

For an enterprise registered in preferred areas of investment, said employment may be issued upon recommendation of the government agency charged with the supervision of the said enterprise.

Article 32. **PROHIBITION AGAINST TRANSFER OF EMPLOYMENT. –**

(a) After the issuance of the employment permit, the alien shall not transfer to another job or change his employer without prior approval of the Secretary of the Department of Labor and Employment.

(b) Any non-resident alien who shall take up employment in violation of the provision of this Title and its implementing rules and regulations shall be punished by ***imprisonment of not less than three (3) months nor more than three (3) years and/or fine of not less than One Thousand Pesos (P1,000.00) nor more than Ten Thousand Pesos (P10,000.00), or both such fine and imprisonment at the discretion of the Labor Court.*** In addition, the alien worker shall be subject to deportation after service of his sentence. (PM proposal: Taken from Art. 288 of the LC)

Article 33. **SUBMISSION OF LIST.** - Any employer, employing non-resident nationals on the effective date of this Code shall submit a list of such foreign nationals to the Secretary of the Department of Labor and Employment within thirty (30) days after such date indicating their names, citizenship, foreign and local addresses, nature of employment and status of stay in the country. The Secretary of the Department of Labor and Employment shall then determine if they are entitled to an employment permit.

BOOK II
CONDITIONS OF EMPLOYMENT

TITLE I
HUMAN RESOURCE DEVELOPMENT

CHAPTER I
GENERAL PROVISIONS

Article 34. DECLARATION OF POLICY. – *It is hereby declared State policy to provide relevant, accessible, high quality and efficient technical education, skills development and internship programs in support of the development of high quality technical and intellectual human resource responsive to and in accordance with Philippine development goals of uplifting the lives of the Filipino working men and women. Likewise, all private and public enterprises shall formulate and implement a human resource development program for the continuing education and training of their employees for efficiency, promotion and self-improvement.* (PM proposal)

The State shall encourage active participation of various concerned sectors, particularly private enterprises, being direct participants in and immediate beneficiaries of a trained and skilled workforce, in providing technical education and skills development opportunities. (TESDA Law)

Article 35. STATEMENT OF GOALS. – *It is the goal of this Act to:*

- a. Promote and strengthen the quality of technical education and skills development programs to help meet the demand for skilled and trained human resources to help attain international competitiveness; (TESDA Law)*
- b. Focus technical education and skills development on meeting the changing demands for quality middle-level human resources; (TESDA Law)*
- c. Make relevant the internship programs of undergraduate courses to the actual job qualifications after graduation; (PM proposal)*
- d. Encourage critical and creative thinking by disseminating the scientific and technical knowledge base of middle-level human resources development programs; (TESDA Law)*
- e. Recognize the complimentary roles of public and private institutions, government and non-government agencies, and workers and employers in technical education, skills development and internship programs of undergraduate degrees and training systems; (TESDA Law)*
- f. Develop enterprise level people-centered human resource development programs to achieve a wholistic quality of work life for workers; (PM proposal)*
- g. Establish labor standards for the protection of apprentices and interns; and (PM proposal)*

1 *h. Inculcate desirable values through the development of dignity in character with*
2 *emphasis on work ethic, self-discipline, self-reliance, workers empowerment and*
3 *nationalism; (TESDA Law)*
4

5 **Article 36. Definition of Terms**
6

7 *Apprentice – a person undergoing training for an approved apprenticeable occupation*
8 *under an apprenticeship agreement;*
9

10 *Apprenticeship – practical training on the job within an employment condition*
11 *supplemented by related theoretical instructions provided by a certified technical*
12 *educational institution involving a contract between an apprentice and an employer on*
13 *an approved apprenticeable occupation;*
14

15 *Apprenticeship Agreement – a contract wherein a prospective employer binds himself*
16 *to train the apprentice who in turn accepts the terms of training for a recognized*
17 *apprenticeable occupation emphasizing the rights, duties and responsibilities of each*
18 *party in accordance with law;*
19

20 *Intern – a person undergoing training on the job as required for the completion of a*
21 *four-year undergraduate degree under a registered educational institution;*
22

23 *Internship – a practical training on the job within an employment condition as*
24 *required by the curriculum of a four-year undergraduate degree for its completion as*
25 *approved by the Commission;*
26

27 *Apprenticeable Occupations – an occupation officially endorsed by a tripartite body*
28 *and approved as apprenticeable by the Authority;*
29

30 *Skill – an acquired and practiced ability to carry out a task or job;*
31

32 *Skills Development – the process through which students and workers are*
33 *systematically provided with learning opportunities to acquire or upgrade, or both,*
34 *their ability, knowledge and behavior pattern required as qualifications for a job or*
35 *range of jobs in a given occupational area;*
36

37 *Technical Education – the education process designed at post-secondary and lower*
38 *level tertiary levels, officially recognized as non-degree programs aimed at preparing*
39 *technicians, para-professionals and other categories of middle-level workers by*
40 *providing them with a broad range of general education, theoretical, scientific and*
41 *technological studies, and related job skills training;*
42

43 *Authority – the Technical Education and Skills Development Authority, which is the*
44 *government agency created to primarily be responsible for formulating, continuing,*
45 *coordinated and fully integrated technical education and skills development policies,*
46 *plans and programs of the government;*
47

48 *Commission – the Commission on Higher Education which is the government agency*
49 *tasked to primarily be responsible in formulating, coordinating, planning and*
50 *regulating the operations of tertiary public and private education including the*

1 *authority to set the standards in the curriculum design of undergraduate degrees and*
2 *establishment of internship programs in specific courses;*

3
4 *Trade – any group of interrelated jobs or any occupation which is traditionally or*
5 *officially recognized as craft or artisan in nature requiring specific qualifications that*
6 *can be acquired through work experience and/or training;*

7
8 *Middle-Level Human Resources – persons who have acquired practical skills and*
9 *knowledge through formal or non-formal education with a corresponding degree or*
10 *diploma or those that have become highly competent in their trade or craft as attested*
11 *by the industry;*

12
13 *Trainers – persons who direct the practice of skills towards immediate improvement in*
14 *some task;*

15
16 *Trainors – persons who provide training aimed at developing the trainer’s capacities*
17 *for imparting attitudes, knowledge, skills and behavior patterns required for specific*
18 *jobs, occupations or group of related occupations;*

19
20 *“User-Led” or “Market-Driven Strategy” – a strategy, which promotes strengthened*
21 *linkages between educational/training institutions and industry to ensure that*
22 *appropriate skills and knowledge are provided by the educational system;*

23
24 *“Dual Training System” – a delivery system of quality technical, vocational and*
25 *college degree education which requires training to be carried out alternately in two*
26 *venues: in-school and in the production plant or actual workplace. In-school training*
27 *provides the trainee with the theoretical foundation, basic training, guidance and*
28 *human formation, while in-plant or workplace training develops his skills and*
29 *proficiency in actual work conditions as it continues to inculcate personal discipline*
30 *and work values;*

31
32 *Levy Grant System – a legal contribution from participating employers who would be*
33 *beneficiaries of the program (often as a percentage of the payroll), which is*
34 *subsequently turned over or rebated to enterprises offering employee’s training*
35 *programs. (TESDA Law)*

36
37 *Article 37. COVERAGE. – All rights, benefits, responsibilities and obligations under this Title,*
38 *except as otherwise provided under this Code, shall apply to all apprentices and interns employed*
39 *in the private and public sector, whether agricultural or non-agricultural. (PM proposal)*

40
41 **CHAPTER II**
42 **TECHNICAL EDUCATION AND SKILLS DEVELOPMENT PROGRAM**
43

44 *Article 38. TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY. – To*
45 *implement the policy declared under this Title, there is hereby created a Technical Education and*
46 *Skills Development Authority (TESDA), hereinafter referred to as the Authority, which shall*
47 *replace and absorb the National Manpower and Youth Council (NMYC), the Bureau of*
48 *Technical and Vocational Education (BTVE) and the personnel and functions pertaining to*
49 *technical-vocational education in the regional offices of the Department of Education (DepED)*

1 *and the apprenticeship program of the Bureau of Local Employment of the Department of Labor*
2 *and Employment. (TESDA Law)*

3
4 **Article 39. COMPOSITION OF THE AUTHORITY.** – *The Authority shall be composed of the*
5 *TESDA Board and the TESDA Secretariat. (TESDA Law)*

6
7 **Article 40. COMPOSITION OF THE TESDA BOARD.** – *The TESDA Board shall be composed*
8 *of the following:*

- 9
10 a) *The Secretary of Labor and Employment - Chairperson*
11 b) *Secretary of Education – Co-Chairperson*
12 c) *Secretary of Trade and Industry – Co-Chairperson*
13 d) *Secretary of Agriculture – Member*
14 e) *Secretary of Interior and Local Government – Member*
15 f) *Director-General of the TESDA Secretariat – Member*
16

17 *In addition, the President of the Philippines shall appoint in a ministerial capacity the*
18 *following members from the private sector who shall be nominated and/or recommended by their*
19 *respective organizations or associations: two (2) representatives from the employer/industry*
20 *organization, one of whom shall be a woman; three (3) representatives of the national*
21 *associations of private technical-vocational education and training institutions, one (1) of whom*
22 *shall be a woman; and three (3) representatives of trade unions, federations or national unions,*
23 *one (1) of whom shall be a woman. As soon as all the members of the private sector are*
24 *appointed, they shall so organized themselves that the term of office of one-third (1/3) of their*
25 *number shall expire every year. The member from the private sector appointed thereafter to fill*
26 *the vacancies caused by expiration of terms shall hold office for three (3) years.(PM proposal)*
27

28 *The TESDA Board shall meet at least twice a year, or as frequently as maybe deemed*
29 *necessary by its Chairperson. In the absence of the Chairperson, a Co-Chairperson shall preside*
30 *over the Board’s meeting. In case any member of the Board representing the government cannot*
31 *attend the meeting, he or she shall be regularly represented by an Undersecretary or Deputy*
32 *Director-General, as the case maybe, to be designated by such member for the purpose.*
33

34 *The benefits, privileges and emoluments of the members of the Board shall be consistent*
35 *with existing laws and regulations. (TESDA Law)*
36

37 **Article 41. POWERS AND FUNCTIONS OF THE BOARD.** – *The Authority shall primarily be*
38 *responsible for formulating continuing, coordinated and fully integrated technical education and*
39 *skills development policies, plans and programs taking into consideration the following:*
40

- 41 a) *The State policy declared herein of giving new direction and thrusts to efforts in*
42 *developing the quality of Filipino human resource through technical education and*
43 *skills development;*
44
45 b) *The implementation of the above-mentioned policy requires the coordination and*
46 *operation of policies, plans, and programs of different concerned sectors of Philippine*
47 *society;*
48

- 1 c) *Equal participation of representatives of industry groups, trade unions associations,*
2 *employers, workers and government shall be made the rule in order to ensure that*
3 *urgent needs and recommendations are readily addressed; and*
4
5 d) *Improved linkages between industry, labor and government shall be given priority in*
6 *the formulation of any national level plan.*
7

8 ***The Board shall have the following powers:***
9

- 10 a. *Promulgate, after due consultation with industry groups, trade associations,*
11 *employers, workers, policies, plans, programs and guidelines as may be necessary for*
12 *the effective implementation of this Code;*
13
14 b. *Organize and constitute various standing committees, subsidiary groups, or technical*
15 *working groups for efficient integration, coordination and monitoring technical*
16 *education and skills development programs at the national, regional, and local levels;*
17
18 c. *Enter into, make, execute, perform and carry-out domestic and foreign contracts*
19 *pertinent to technical-vocational education subject to existing laws, rules and*
20 *regulation;*
21
22 d. *Restructure the entire sub-sector consisting of all institutions and programs involved*
23 *in the promotion and development of middle-level human resource through*
24 *upgrading, merger and/or phase-out following a user-led strategy;*
25
26 e. *Approve trade skills standards and trade tests as established and conducted by private*
27 *industries;*
28
29 f. *Establish and administer a system of accreditation of both public and private*
30 *institutions;*
31
32 g. *Establish, develop and support institutions' trainors' training and/or programs;*
33
34 h. *Lend support and encourage increasing utilization of the dual training system as*
35 *provided for by Republic Act 7686;*
36
37 i. *Exact reasonable fees and charges for such tests and trainings conducted and retain*
38 *such earnings for its own use, subject to guidelines promulgated by the Authority;*
39
40 j. *Allocate resources, based on the Secretariat's recommendations for the programs and*
41 *subjects it shall undertake pursuant to approved National Technical Education and*
42 *Skills Development Plan;*
43
44 k. *Determine and approve systematic funding schemes such as the Levy and Grant*
45 *scheme for technical education and skills development purposes;*
46
47 l. *Create, when deemed necessary, an Advisory Committee which shall provide expert*
48 *and technical advice to the Board to be chosen from the academe and the private*
49 *sector; Provided, that in case the Advisory Committee is created, the Board is hereby*
50 *authorized to set aside a portion of its appropriation for its operation; and*

1
2 *m. Perform such other duties and functions necessary to carry out the provisions of this*
3 *Code consistent with the purposes of the creation of the TESDA. (TESDA Law)*
4

5 **Article 42. POWER TO REVIEW AND RECOMMEND ACTION.** – *The Authority shall review*
6 *and recommend action to concerned authorities on proposed technical assistance programs and*
7 *grants-in-aid for technical education or skills development, or both, including those which may*
8 *be entered into between the Government of the Philippines and other nations, including*
9 *international and foreign organizations, both here and abroad. (TESDA Law)*
10

11 **Article 43. THE TESDA SECRETARIAT.** – *There is hereby created a Technical Education and*
12 *Skills Development Authority Secretariat which shall have the following functions and*
13 *responsibilities:*
14

- 15 *a) To establish and maintain a planning process and formulate a national technical*
16 *education and skills development plan in which the member-agencies and other*
17 *concerned entities of the Authority at various levels participate;*
18
- 19 *b) To provide analytical inputs to policy decision-making of the Authority on allocation*
20 *of resources and institutional roles and responsibilities as shall be embodied in annual*
21 *agencies technical education and skills development plans, in accordance with the*
22 *human resources plan for middle-level skilled worker as approved by the Authority;*
23
- 24 *c) To recommend measures, and implement the same upon approval by the Authority,*
25 *for the effective and efficient implementation of the national technical education and*
26 *skills development plan;*
27
- 28 *d) To proposed to the Authority the specific allocation of resources for the programs ad*
29 *projects it shall undertake pursuant to approved national technical education and*
30 *skills development plan;*
31
- 32 *e) To submit to the Authority periodic reports on the progress and accomplishment of*
33 *work programs of implementation of plans and policies for technical education and*
34 *skills development;*
35
- 36 *f) To prepare for approval by the Authority an annual report to the President on*
37 *technical education and skills development;*
38
- 39 *g) To implement and administer the apprenticeship program as provided for in this*
40 *Code;*
41
- 42 *h) To prepare and implement upon approval by the Authority a program for the training*
43 *of trainers, supervisors, planners and managers as provided for in this Code;*
44
- 45 *i) To enter into an agreement to implement approved plans and programs and perform*
46 *activities that shall implement the declared policy of this Title; and*
47
- 48 *j) To perform such other functions and duties as may be assigned by the Board. (TESDA*
49 *Law)*
50

1 **Article 44. DIRECTOR-GENERAL.** – *The TESDA Secretariat shall be headed by a Director-*
2 *General, who shall likewise be a member of the TESDA Board. The Director-General shall be*
3 *appointed by the President of the Philippines and shall enjoy the benefits, privileges and*
4 *emoluments equivalent to the rank of Undersecretary. As Chief Executive Officer of the TESDA*
5 *Secretariat, the Director-General shall exercise general supervision and control over its technical*
6 *and administrative personnel.* (TESDA Law)
7

8 **Article 45. DEPUTY DIRECTOR-GENERAL.** – *The Director-General shall be assisted by two*
9 *(2) Deputy Director-General to be appointed by the President of the Philippines on*
10 *recommendation of the TESDA Board. The one to be responsible for Vocational and Technical*
11 *Education and Training and one to be responsible for Policies and Planning. The Deputy*
12 *Director-General shall enjoy the benefits, privileges and emoluments equivalent to the rank of*
13 *Assistant Secretary.* (TESDA Law)
14

15 **Article 46. CHIEF OF SERVICES FOR ADMINISTRATION.** – *The Director-General shall*
16 *also be assisted by a Chief of Services for Administration who shall be a Career Civil Service*
17 *Official to be appointed by the TESDA Board.* (TESDA Law)
18

19 **Article 47. STRUCTURAL ORGANIZATION AND PERSONEEL.** – *The TESDA Secretariat, in*
20 *addition to the offices of the Director-General, Deputy Director-General and Chief of Services*
21 *for Administration shall be composed of the following offices to be headed by an Executive*
22 *Director to be appointed by the Director-General and shall have the rank and emoluments of*
23 *Director IV.*
24

25 **I. Planning Office (PO)** – *The Planning Office shall be under the Office of*
26 *the Deputy Director-General and shall have the following functions:*
27

- 28 **a.** *To design and establish planning processes and methodologies which will*
29 *particularly enhance the efficiency of resource allocation decisions within the*
30 *technical education and skills development sector;*
- 31 **b.** *To lead in the preparation and periodic updating of a national plan for*
32 *technical education and skills development which shall become the basis for*
33 *resource allocation decisions within the sector;*
- 34 **c.** *To conduct researchers, studies and develop information systems for effective*
35 *and efficient planning and policy making within the sector;*
- 36 **d.** *To develop and implement programs and projects aimed at building up*
37 *planning capabilities of various institutions within the sector; and*
- 38 **e.** *To perform such other powers and functions as may be authorized by the*
39 *Authority.*

40 **II. Skills Standard and Certification Office (SSCO)** – *The Skills and Standards*
41 *and Certification Office shall be under the office of the Deputy Director-*
42 *General and shall have the following functions:*
43

- 44 **a.** *To develop and establish a national system of skills standardization, testing and*
45 *certification in the country;*
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- b. To design, innovate and adopt processes and methodologies whereby industry groups and workers' guilds take not on progressively the responsibility of setting skills standards for identified occupational areas, and the local government units actively participate in promoting skills standards, testing and certification;*
 - c. To establish and implement a system of accrediting private enterprises, worker's associations and guilds and public institutions to serve as skills testing venues;*
 - d. To conduct research and development on various occupational areas in order to recommend policies, rules ad regulations for effective and efficient skills standardization, testing and certification system in the country; and*
 - e. To perform such other duties and functions as may be authorized.*

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III. National Institute for Technical Vocational and Education Training (NITVET) – The National Institute for Technical Vocational and Education Training shall be under the Office of the Deputy Director-General and shall have the following functions:

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- a. To serve as the research and development arm of the government in the field of the technical-vocational education and training;*
 - b. To develop curricula and program standards for various technical-vocational education and training areas;*
 - c. To develop and implement an integrated program for continuing development of trainors, teachers and instructors within the technical education and skills development sector;*
 - d. To develop programs and project which will build up institutional capabilities within the sector, and*
 - e. To perform such other powers and functions as may be authorized.*

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IV. Office of Formal Technical Vocational Education and Training (OFTVET) – The Office of the Formal Technical Vocational Education and Training shall be under the office of the Deputy Director-General and shall have the following functions:

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- a. To provide policies, measures ad guidelines for effective and efficient administration of formal technical-vocational education and training programs implemented by various institutions in the country;*
 - b. To establish and maintain a system for accrediting, coordinating, integrating, monitoring and evaluating the different formal technical-vocational education and training programs vis-à-vis the approved national technical education and skills development plan;*

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- c. To establish and maintain a network of institutions engaged in institutionalized technical-vocational education and training, particularly with local government units; and*
 - d. To perform such other duties and functions as may be authorized.*
 - V. Office of the Non-Formal Technical Vocational Education and Training (ONFTVET) – The Office of the Non-Formal Technical-Vocational Education and Training shall be under the office of the Deputy Director-General and shall have the following functions:*
 - a. To provide direction, policies and guidelines on the implementation of non-formal community-based technical-vocational education and training;*
 - b. To accredit, coordinate, monitor and evaluate various non-formal technical-vocational education and training programs implemented by various institutions particularly, by local government units;*
 - c. To establish and maintain a network of institutions including government units, non-government organizations implementing non-formal, community-based technical-vocational education and training;*
 - d. To perform such other powers and functions as may be authorized.*
 - VI. Office of Apprenticeship (OA) – The Office of Apprenticeship shall be under the Office of the Deputy Director-General and shall have the following functions:*
 - a. To provide direction, policies and guidelines on the implementation of the apprenticeship system;*
 - b. To accredit, coordinate, monitor and evaluate all apprenticeship schemes and program implemented by various institutions and enterprises;*
 - c. To establish a network of institutions and enterprises conducting apprenticeship schemes and programs;*
 - d. To perform such other powers and functions as may be authorized.*
 - VII. Regional TESDA Offices – The Regional TESDA Offices shall be headed by the Regional Directors with the rank and emoluments of Director IV to be appointed by the President. The Regional TESDA Offices shall be under the direct control of the Director-General and shall have the following functions:*
 - a. To coordinate and monitor the delivery of all skills development activities by the public and private sectors in their respective jurisdiction;*

- b. *To provide effective supervision, coordination and integration of technical education and skills development programs, projects and related activities in their respective jurisdictions;*
- c. *To develop and recommend TESDA programs for regional and local-level implementation within the policies set by the Authority;*
- d. *To perform such other duties and functions as may be deemed necessary.*
(TESDA Law)

Article 48. THE PROVINCIAL TESDA OFFICES. – *The Provincial Offices shall be headed by the Skills Development Officers who shall have the rank and emoluments of a Director III. The Provincial TESDA Offices shall be under the direct control of the Director-General and shall have the following functions:*

- a. *To coordinate and monitor the delivery of all skills development activities by the public and private sector in their respective provinces;*
- b. *To provide technical assistance particularly to local government units for effective supervision, coordination, integration and monitoring of technical-vocational education and training programs within their localities;*
- c. *To review and recommend TESDA Programs for implementation within their localities; and*
- d. *To perform such other duties and functions as may be authorized. Furthermore, the TESDA Secretariat may be further composed by such offices as may be deemed necessary by the Authority. The Director-General shall appoint such personnel necessary to carry out the objectives, policies and functions of the Authority subject to civil service laws, rules and regulations.* (TESDA Law)

Article 49. TRANSFER OF THE APPRENTICESHIP PROGRAM. – *The Apprenticeship Program of the Bureau of Local Employment of the Department of Labor and Employment shall be transferred to the Authority, which shall implement and administer said program in accordance with existing laws, rules and regulations.* (TESDA Law)

Article 50. SKILLS DEVELOPMENT CENTERS. – *The Authority shall strengthen the network of national, regional and local skills training centers for the purpose of promoting skills development. This network shall include skills training centers in vocational and technical schools, technical institutes, polytechnic colleges, and all other duly accredited public and private dual system educational institutions. The technical education and skills development centers shall be administered and operated under such rules and regulations as may be established by the Authority in accordance with the National Technical Education and Skills Development Plan.*
(TESDA Law)

Article 51. FORMULATION OF A COMPREHENSIVE DEVELOPMENT PLAN FOR MIDDLE-LEVEL HUMAN RESOURCES. – *The Authority shall formulate a comprehensive development plan for middle-level human resource, with prior tripartite consultation with public and private technical-vocational educational institutions, employers and workers, based on a national employment plan or policies for the optimum allocation, development and utilization of*

1 *skilled workers for employment entrepreneurship and technology development for economic and*
2 *social growth. This plan shall after adoption by the Authority be updated periodically and*
3 *submitted to the President of the Philippines for approval. Thereafter, it shall be the plan for the*
4 *technical education and skills development for the entire country within the framework of the*
5 *national development plan. The Authority shall direct the TESDA Secretariat to call on its*
6 *member-agencies, the private sector including the workers and the trade unions, and the*
7 *academe to assist in this effort. The comprehensive plan shall provide for a reformed industry-*
8 *based training program including apprenticeship, dual training system and other similar schemes*
9 *intended to:*

- 10
11 *a. Promote maximum protection and welfare of the worker-trainee, either apprentice or*
12 *intern;*
- 13
14 *b. Improve the quality, relevance and social accountability of technical education and*
15 *skills development;*
- 16
17 *c. Accelerate the employment-generation effort of the government; and*
- 18
19 *d. Expand the range of opportunities for upward social mobility of the school-going*
20 *population beyond the traditional higher levels of formal education. All government*
21 *and non-government agencies receiving financial and technical assistance from the*
22 *government shall be required to formulate their respective annual agency technical*
23 *education and skills development plan in line with the national technical education*
24 *and skills development plan. The budget to support such plans shall be subject to*
25 *review and endorsement by the Authority to the Department of Budget and*
26 *Management. The Authority shall evaluate the efficiency and effectiveness of*
27 *agencies skills development program and schemes to make them conform to the*
28 *quantitative and qualitative objectives of the national technical education and skills*
29 *development plan. (TESDA Law)*

30
31 **Article 52. ESTABLISHMENT AND ADMINISTRATION OF NATIONAL TRADE SKILLS**
32 **STANDARDS.** – *There shall be national occupational skills standards to be established by*
33 *TESDA-accredited industry committees that shall be approved by the Authority. The Authority*
34 *shall develop and implement a certification and accreditation program in which private industry*
35 *groups and trade associations are accredited to conduct approved trade tests, and the local*
36 *government units to promote such trade testing activities in their respective areas in accordance*
37 *with the guidelines and standards to be set and approved by the Authority. The Secretary of*
38 *Labor and Employment shall determine the occupational trades for mandatory certification. All*
39 *certificates relating to the national trade skills testing and certification system shall be issued by*
40 *the Authority through the TESDA Secretariat. (TESDA Law)*

41
42 **Article 53. REPORTORIAL REQUIREMENTS.** - *In order to integrate the national skills*
43 *development efforts, all technical education and skills training schemes as provided for in this*
44 *Title shall be compulsory reported to the Authority including most especially those having to do*
45 *with the setting of trade skills standards. For this purpose, existing technical education and skills*
46 *training programs in the Government and in the private sector, specifically those wholly or partly*
47 *financed by government funds, shall be reported to the Authority which shall assess and evaluate*
48 *such programs to ensure their efficiency and effectiveness. (TESDA Law)*

1 **Article 54. ADMINISTRATION OF TRAINING PROGRAMS.** – *The Authority shall design and*
2 *administer training programs and schemes that will develop the capabilities of public and private*
3 *institutions to provide quality and cost-effective technical education and skills development and*
4 *related opportunities. Such training programs and schemes shall include teacher’s trainors’*
5 *training, skills training for entrepreneur development and technology development, cost-effective*
6 *training in occupational trades and related fields of employment, and value development and*
7 *gender sensitivity as an integral component of all skills training programs. (TESDA Law)*

8
9 **Article 55. ASSISTANCE TO EMPLOYERS AND ORGANIZATIONS.** – *The Authority shall*
10 *assist any employer or organization engaged in skills training schemes designed to attain its*
11 *objectives under rules and regulations which the Authority shall establish for this purpose.*
12 *(TESDA Law)*

13
14 **Article 56. INCENTIVE SCHEMES.** – *The Authority shall develop and administer appropriate*
15 *incentive schemes to encourage government and private industries and institutions to provide*
16 *high-quality technical education and skills development opportunities. (TESDA Law)*

17
18 **Article 57. COORDINATION WITH INDUSTRY BOARDS.** – *The Authority shall establish*
19 *effective and efficient institutional arrangements with industry boards and such other bodies or*
20 *associations to provide direct participation of employers and workers in the design and*
21 *implementation of skills development schemes, trade skills standardization and certification and*
22 *such other functions in the fulfillment of the Authority’s objectives. (TESDA Law)*

23
24 **Article 58. SKILLS DEVELOPMENT OPPORTUNITIES.** – *The Authority shall design and*
25 *implement an effective and efficient delivery system for quality technical education and skills*
26 *development opportunities particularly in disadvantaged sectors, with new tools of wealth*
27 *creation and with the capability to take on higher value-added gainful activities and to share*
28 *equitably in productivity gains. (TESDA Law)*

29
30 **Article 59. TECHNICAL SKILLS OLYMPICS.** – *To promote quality skills development in the*
31 *country and with the view of participating in international skills competition, the Authority, with*
32 *the active participation of private industries, shall organize and conduct annual National*
33 *Technical Skills Olympics. The Authority, through the TESDA Secretariat, shall promulgate the*
34 *necessary rules and guidelines for the effective and efficient conduct of the Annual National*
35 *Technical Skills Olympics and for the country’s participation in international skills Olympics.*
36 *(TESDA Law)*

37
38 **Article 60. THE TESDA DEVELOPMENT FUND.** – *A TESDA Development Fund is hereby*
39 *established, to be managed/administered by the Authority, the income from which shall be*
40 *utilized exclusively in awarding of grants and providing assistance to training institutions,*
41 *industries, workers development centers, local government units for upgrading their capabilities*
42 *and to develop and implement training and training-related activities. (PM proposal: includes*
43 *“workers development centers”)*

44
45 **a. The contribution to the fund shall be the following:**

46
47 **i. A one-time lump sum appropriation from the National Government;**
48

1 ii. *An annual contribution from the Overseas Workers Welfare*
2 *Administration Fund, the amount of which should be part of the study*
3 *on financing in conjunction with letter (D) of Section 34;*

4
5 iii. *Donations, grants, endowments, and other bequests or gifts, and any*
6 *other income generated by the Authority.*

7
8 b. *The TESDA Board shall be the administrator of the fund, and as such, shall*
9 *formulate the necessary implementing guidelines for the management of the*
10 *fund, subject to the following:*

11
12 i. *Unless otherwise stipulated by the private donor, only earnings of*
13 *private contributions shall be used; and*

14
15 ii. *No part of the seed capital of the fund, including earnings thereof, shall*
16 *be used to underwrite expenses for administration.*

17
18 c. *The Board shall appoint a reputable government-accredited investment*
19 *institution as fund manager, subject to guidelines promulgated by the Board.*

20
21 **Article 61. SCHOLARSHIP GRANTS.** – *The Authority shall adopt a system of allocation and*
22 *funding of scholarship grant, which shall be responsive to the technical education and skills*
23 *development needs of the underprivileged sector in the different regions in the country. (TESDA*
24 *Law)*

25
26 **CHAPTER III**
27 **INTERNSHIP PROGRAMS OF UNDERGRADUATE DEGREES**

28
29 **Article 62. COVERAGE.** – *This chapter shall apply to all students of undergraduate degree*
30 *courses enrolled in colleges and universities and other educational institutions duly accredited by*
31 *the Commission on Higher Education who render service in private enterprises and/or*
32 *government agencies as part of their completion of the requirements for graduation. (PM*
33 *proposal)*

34
35 **Article 63. ADMINISTRATION.** – *The Department of Labor and Employment shall coordinate*
36 *with the Commission on Higher Education on the proper implementation and conduct of the*
37 *employment of student interns enrolled in undergraduate degrees with internship programs. (PM*
38 *proposal)*

39
40 **CHAPTER IV**
41 **HUMAN RESOURCE DEVELOPMENT PROGRAM**
42 **AT THE ENTERPRISE LEVEL**

43
44 **Article 64. STATEMENT OF POLICY.** – *It shall be the policy of the State to continuously*
45 *upgrade the skills and knowledge of employees in order to increase efficiency and*
46 *competitiveness of workers through a Human Resource Development Program to be implemented*
47 *at the enterprise level or the factory floor shop. Employers of both private and public enterprises,*
48 *agencies and organizations employing not less than twenty (20) workers shall be required to*
49 *formulate a HRD program for their workers in accordance with IRR of this Code. (PM proposal)*

Article 65. COVERAGE. – *The implementation of Human Resource Development Program under this chapter shall apply to all public and private, agricultural and non-agricultural enterprises, organizations and agencies employing not less than twenty (2) workers.* (PM proposal)

CHAPTER V ADULT EDUCATION

Article 66. ADULT EDUCATION. – Every employer shall render assistance in the establishment and operation of adult education programs for their workers and employees as prescribed by regulations jointly approved by the Department of Labor and Employment and the Department of Education Culture and Sports. (Art 210 of the LC)

TITLE II EMPLOYMENT OF APPRENTICE AND INTERNS

CHAPTER I EMPLOYMENT OF APPRENTICE

Article 67. **QUALIFICATIONS OF APPRENTICE.** - To qualify as an apprentice, a person shall:

- (a) Be at least **fifteen (15)** years of age;
- (b) Possess vocational aptitude and capacity for appropriate tests; and
- (c) Possess the ability to comprehend and follow oral and written instructions.
- (d) *In case of students, he/she shall be enrolled in a particular course requiring on the job training as provided by the curriculum of the Commission of Higher Education or TESDA.* (PM proposal: italics incorporated to Art. 59 of LC)

Trade and industry associations may recommend to the Secretary of Labor, Department of Higher Education and TESDA appropriate educational requirements or course for different occupations.

Article 68. **CONTENTS OF APPRENTICESHIP AGREEMENTS.** - Apprenticeship agreements, including the wage rates of apprentices, shall conform to the rules issued by the Secretary of Labor and Employment. The period of apprenticeship shall not exceed six months. Apprenticeship agreements providing for wage rates below the legal minimum wage, which in no case shall start below 75 percent of the applicable minimum wage, may be entered into only in accordance with apprenticeship programs duly approved by the Secretary of Labor and Employment. The Department shall develop standard model programs of apprenticeship. (As amended by Section 1, Executive Order No. 111, December 24, 1986).

In case of apprentice students, the period of apprenticeship shall be the period required by the curriculum of a particular course provided by the Department of Higher Education or TESDA. (PM proposal: italics incorporated to Art. 61 of LC)

Article 69. **SIGNING OF APPRENTICESHIP AGREEMENT.** – Every apprenticeship agreement shall be signed by the employer or his agent, or by an authorized representative of any of the recognized organizations, associations or groups and by the apprentice.

- a. An apprenticeship agreement with a minor shall be signed in his behalf by his parent or guardian, if the latter is not available, by an authorized representative of the Department of Labor, and the same shall be binding during its lifetime.
- b. Every apprenticeship agreement entered into under this Title shall be ratified by the appropriate apprenticeship committees, if any, and a copy thereof shall be furnished both the employer and the apprentice.

Article 70. **VENUE OF APPRENTICESHIP PROGRAMS.** - Any firm, employer, group or association, industry organization or civic group wishing to organize an apprenticeship program may choose from any of the following apprenticeship schemes as the training venue for apprentice:

- (a) Apprenticeship conducted entirely by and within the sponsoring firm, establishment or entity;
- (b) Apprenticeship entirely within a Department of Labor and Employment training center or other public training institution; or
- (c) Initial training in trade fundamentals in a training center or other institution with subsequent actual work participation within the sponsoring firm or entity during the final stage of training.

Article 71. **SPONSORING OF APPRENTICESHIP PROGRAM.** - Any of the apprenticeship schemes recognized herein may be undertaken or sponsored by a single employer or firm or by a group or association thereof or by a civic organization. Actual training of apprentices may be undertaken:

- (a) In the premises of the sponsoring employer in the case of individual apprenticeship programs;
- (b) In the premises of one or several designated firms in the case of programs sponsored by a group or association of employers or by a civic organization; or
- (c) In a Department of Labor and Employment training center or other public training institution.

Article 72. **INVESTIGATION OF VIOLATION OF APPRENTICESHIP AGREEMENT.** - Upon complaint of any interested person or upon its own initiative, the appropriate agency of the Department of Labor and Employment or its authorized representative shall investigate any violation of an apprenticeship agreement pursuant to such rules and regulations as may be prescribed by the Secretary of Labor and Employment.

Article 73. **APPEAL TO THE SECRETARY OF LABOR AND EMPLOYMENT.** - The decision of the authorized agency of the Department of Labor and Employment may be appealed by any aggrieved person to the Secretary of Labor and Employment within five (5) days from receipt of the decision. The decision of the Secretary of Labor and Employment shall be final and executory.

Article 74. **EXHAUSTION OF ADMINISTRATIVE REMEDIES.** - No person shall institute any action for the enforcement of any apprenticeship agreement or damages for breach of any such agreement, unless he has exhausted all available administrative remedies.

Article 75. PENALTY.- *The tax incentive provided under Article 79 of this Code shall be forfeited from any person, enterprise or establishment violating the apprenticeship agreement and shall be made to pay the actual difference between the minimum wage provided under the apprenticeship agreement and the prevailing minimum wage set by the wage board.* (PM proposal)

Article 76. **APTITUDE TESTING OF APPLICANTS.** - Consonant with the minimum qualifications of apprentice-applicants required under this Chapter, employers or entities with duly recognized apprenticeship programs shall have primary responsibility for providing appropriate aptitude tests in the selection of apprentices. If they do not have adequate facilities for the purpose, the Department of Labor and Employment shall perform the service free of charge.

Article 77. **RESPONSIBILITY FOR THEORETICAL INSTRUCTION.** - Supplementary theoretical instruction to apprentices in cases where the program is undertaken in the plant may be done by the employer. If the latter is not prepared to assume the responsibility, the same may be delegated to an appropriate government agency.

Article 78. **VOLUNTARY ORGANIZATION OF APPRENTICESHIP PROGRAMS; EXEMPTIONS.** –

- a. The organization of apprenticeship program shall be primarily a voluntary undertaking by employers;
- b. When national security or particular requirements of economic development so demand, the President of the Philippines may require compulsory training of apprentices in certain trades, occupations, jobs or employment levels where shortage of trained manpower is deemed critical as determined by the Secretary of Labor and Employment. Appropriate rules in this connection shall be promulgated by the Secretary of Labor and Employment as the need arises; and
- c. Where services of foreign technicians are utilized by private companies in apprenticeable trades, said companies are required to set up appropriate apprenticeship programs.

Note: inquire status of apprenticeship program of TESDA/DOLE and companies

Article 79. **DEDUCTIBILITY OF TRAINING COSTS.** – An additional deduction from taxable income of *three-fourth* of the value of labor training expenses incurred for developing the productivity and efficiency of apprentices shall be granted to the person or enterprise organizing an apprenticeship program: Provided, that such program is duly recognized by the Department of Labor and Employment: Provided, further, that the person or enterprise who wishes to avail himself or itself of this incentive should pay he/she apprentices the minimum wage. (PM proposal)

Article 80. REGULARIZATION OF APPRENTICES. – *Any person, enterprise or establishment who continue to employ or permit the apprentice to render work beyond six months shall be deemed regular employee, except apprentice students, who shall be deemed regular after having been permitted to work beyond the period, on the job training program for the completion of a*

1 *particular course or as required for graduation or requisite for taking board examination as*
2 *provided by Department of Higher Education or TESDA. (PM proposal)*
3
4

5 **CHAPTER II**
6 **EMPLOYMENT OF INTERNS**
7

8 **Article 81. QUALIFICATIONS OF INTERNS. –**
9

- 10 *a. Must be at least eighteen (18) years of age;*
11 *b. Must be enrolled in an undergraduate degree course in a tertiary college or university*
12 *or any educational and training institution accredited by the Commission;*
13 *c. Must have completed at least the second year of tertiary education or earned the*
14 *equivalent of sixty (60) units of course subjects; (PM proposal)*
15

16 Article 82. INTERNSHIP CONTRACT. – Internship contract, including the wage rates of interns,
17 shall conform to the rules issued by the Secretary of Labor and Employment. The period of
18 internship shall not exceed period required by the curriculum of a particular course as provided by
19 Department of Higher education or TESDA. Internship contract providing for wage rates below the
20 legal minimum wage, which in no case shall start below 75 percent of the applicable minimum
21 wage, may be entered into only in accordance with internship programs duly approved by the
22 Department of Higher Education or TESDA. The Department of Higher Education or TESDA shall
23 develop standard model programs of internship. (PM proposal; consult CHED)

24
25 **TITLE III**
26 **EMPLOYMENT OF WOMEN**
27

28 **CHAPTER I**
29 **DECLARATION OF POLICY**
30

31 Article 83. **DECLARATION OF POLICY. –** *To recognize, respect and affirm the fundamental*
32 *equality before the law of women and men and the significant role of women in nation building*
33 *by recognizing the contribution of women workers and their particular vulnerabilities. The State*
34 *thereby shall apply gender sensitivity criteria in the formulation and implementation of policies*
35 *and programs affecting women workers for the protection of their welfare and interest. (Women*
36 *and Nation Building and Development Act)*
37

38 **CHAPTER II**
39 **EMPLOYMENT OF WOMEN WORKERS**
40

41 **Article 84. COVERAGE. –** *This chapter shall apply to all women in the work force whether*
42 *employed in the private or the public sector or those still looking for work. (PM proposal)*
43

44 **Article 85. CLASSIFICATION OF CERTAIN WORKERS. –** *Any employee who is permitted or*
45 *suffers to work, in any night club, cocktail lounge, massage clinic, bar or similar establishments*
46 *under the effective control or supervision of the employer for a substantial period of time shall be*
47 *considered as an employee of such establishment for purposes of labor and social legislation.*
48 *(PM proposal “as determined by the Secretary Of Labor” deleted: formerly Art. 138 of LC)*

1
2 *As such, said employee shall be entitled to minimum wage, commission share, night shift*
3 *differential, holiday pay, vacation and sick leave, overtime pay, 13th month pay and all other*
4 *benefits under this code.* (PM proposal: italics incorporated to Art. 138 of LC)
5

6
7 **CHAPTER III**
8 **RIGHTS AND PRIVILEGES OF WOMEN WORKERS**

9 Article 86. **NIGHTWORK PROHIBITION.** – No woman regardless of age, shall be employed or
10 permitted or suffered to work with or without compensation:
11

- 12 (a) In any industrial undertaking or branch thereof between ten o'clock at night and six o'clock
13 in the morning of the following day; or
14
15 (b) In any commercial or non-industrial undertaking or branch thereof, other than agricultural,
16 between midnight and six o'clock in the morning of the following day; or
17
18 (c) In an agricultural undertaking at nighttime unless she is given a period of rest of not less
19 than nine (9) consecutive hours.
20

21 Article 85. **EXCEPTIONS.** – The prohibition s prescribed by the preceding article shall not apply
22 in any of the following cases:
23

- 24 (a) In cases of actual or impending emergencies caused by serious accidents, fire, flood
25 typhoon, earthquake, epidemic or other disaster or calamity, to prevent loss of life or
26 property, or in cases of force majeure or imminent danger to public safety;
27
28 (b) In case of urgent work to be performed on machineries, equipment or installation, to avoid
29 serious loss which the employer would otherwise suffer;
30
31 (c) Where the work is necessary to prevent serious loss of perishable goods;
32
33 (d) Where the woman employee holds a responsible position of managerial or technical nature,
34 or where the woman employee has been engaged to provide health and welfare service;
35
36 (e) Where the woman employees are immediate members of the family operating the
37 establishment or undertaking. (PM proposal: deleted Paragraphs (e) and (g) of Art. 131 of
38 LC)
39

40 Article 86. **FACILITIES OF WOMEN.** – *The employer shall establish standards that will ensure*
41 *the safety and health of women employees. The employer shall be required to:* (PM proposal:
42 amended the first paragraph of Art. 132 of the LC)
43

- 44 (a) Provide seats proper for women and permit them to use thereat when they are free from
45 work during working hours, provided they can perform their duties in this position without
46 detriment to efficiency;
47
48 (b) To establish separate toilet rooms and lavatories for men and women and provide at least a
49 dressing room for women; and
50

- 1 (c) To establish a nursery in a workplace **when the number of women with child or children**
2 **exceeds fifty (50).** (PM proposal)

3
4 Article 87. **MATERNITY LEAVE BENEFITS.** –

- 5
6 (a) Every employer shall grant to any pregnant woman employee who has rendered an
7 aggregate service of at least **three (3) months** for the last twelve (12) months, maternity
8 leave of at least **thirty (30) days prior to the expected date of delivery and another sixty**
9 **(60) days after normal delivery or abortion with full pay based on her average daily salary**
10 **credit for ninety (90) days of one hundred twenty (120) days in case of caesarian delivery.**
11 (PM proposal based on SSS law on Maternity benefit: Art. 133 par (a) of LC)

- 12
13 (b) The maternity leave shall be extended without pay on account of illness medically certified
14 to arise out of the pregnancy, delivery, abortion, caesarian, or miscarriage, which renders the
15 woman unfit for work, unless she has earned unused leave credits from which such extended
16 leave may be charged.

- 17
18 (c) The maternity leave provided in this article shall be paid by the employer only for the first
19 four (4) deliveries, caesarian, or miscarriage.

- 20
21 (d) **Every employer shall grant paternity leave with full pay based on his average daily salary**
22 **credit of not less than five days prior to the expected date of delivery and another ten (10)**
23 **days after delivery of his spouse regardless whether the child is born out of wedlock,**
24 **provided there be cohabitation.** (PM proposal: additional paragraph incorporated to Art. 133
25 of LC)

26
27 Article 88. **FAMILY PLANNING SERVICES AND INCENTIVES.** –

- 28
29 a. Establishments which are required by law to maintain a clinic or infirmary shall provide free
30 Family Planning services to their employees which shall include, but not limited to the
31 application or use of contraceptive pills and intra-uterine devices.
32
33 b. In coordination with other agencies of the Government engaged in the promotion of Family
34 planning, the Department of Labor and employment shall develop and prescribe incentive
35 bonus schemes to encourage family planning among female workers in any establishment or
36 enterprise.

37
38 Article 89. **DISCRIMINATION PROHIBITED** – It shall be unlawful for any employer to
39 discriminate against any woman employee with respect to terms and conditions of employment
40 solely on account of her sex.

41
42 The following are acts of discrimination:

- 43
44 (a) Payment of a lesser compensation, including wages, salary or other form of remuneration
45 and fringe benefits to a female employee as against a male employee, for work of equal
46 value;
47
48 (b) Favoring a male employee over a female employee with respect to promotion, training
49 opportunities, study and scholarship grants solely on account of their sexes; and
50

1 (c) *There shall be no discrimination in the process of hiring of any woman employee on*
2 *account of her sex or any employee solely on account of his/her gender preferences.*
3 *Hiring shall be based on account of qualification.* (PM proposal: additional par.
4 Incorporated to Art. 135 of LC)
5

6 **Article 90. PENALTY CLAUSE.** – *Any violations of the provisions under the preceding article*
7 *shall be punished with a fine of not less than ten thousand pesos (P10, 000) nor more than twenty*
8 *thousand pesos (P20, 000), or imprisonment of not less than six (6) months nor more than three*
9 *(3) years, or both such fine and imprisonment at the discretion of the labor court.* (PM proposal)
10

11 **Article 91. PROHIBITED ACTS.** – It shall be unlawful for any employer:
12

- 13 a. To deny any woman employee the benefits provided for in this chapter or to discharge
14 any woman employed by him for the purpose of preventing her from enjoying any of the
15 benefits provided under this Code;
16
- 17 b. To discharge such woman on account of her pregnancy, or while on leave or in
18 confinement due to her pregnancy;
19
- 20 c. To discharge or refuse the admission of such woman upon returning to her work for fear
21 that she may again be pregnant;
22
- 23 d. *To require as condition of employment or continuation of employment that woman*
24 *employee shall not get married, or to stipulate expressly or tacitly that upon getting*
25 *married a woman employee shall be deemed resigned or separated, or to actually*
26 *dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by*
27 *the reason of her marriage;* (PM proposal: based on “PT&T vs. NLRC, R.R. No.
28 118978, 23 May 1997-- additional par. Incorporated to Art. 137 of LC)
29
- 30 e. *To demand, request or otherwise require any sexual favor from another as a condition*
31 *in the hiring or in the employment, re-employment or continued employment of said*
32 *individual, or in granting said individual favorable compensation, terms, conditions,*
33 *promotions, or privileges or the refusal to grant the sexual favor results in limiting,*
34 *segregating, or classifying the employee which in any would discriminate, deprive or*
35 *diminish employment opportunities or otherwise adversely affect said employee; and*
36 (Sexual Harassment Law—R.A. No. 7877-- additional par. Incorporated to Art. 137 of
37 LC)
38
- 39 f. *As a result of the acts referred to in the preceding paragraph of this article, would*
40 *impair the employee’s right or privileges under existing laws, or would result in an*
41 *intimidating, hostile, or offensive environment for the employee.* (Sexual Harassment
42 Law—R.A. No. 7877-- additional par. Incorporated to Art. 137 of LC)
43

44 *For purposes of this article the term employer shall include manager, president, vice-*
45 *president, director, supervisor, department or division head, agent of the employer and co-*
46 *employee.* (PM proposal based on Sexual Harassment Law—R.A. No. 7877-- additional par.
47 Incorporated to Art. 137 of LC)
48

49 **Article 92. PENALTY.** – *Criminal liability for the willful commission of any prohibited act as*
50 *provided in the preceding article shall be penalized of not less than six (6) years nor more than*
33

1 *eight (8) years, or fine of not less than fifty thousand pesos (P50, 000) nor more than one*
2 *hundred thousand pesos (P100, 000), or both such fine and imprisonment at the discretion of the*
3 *Labor court. Provided that in case of violation of paragraphs 5 and 6 of this article the criminal*
4 *penalty and fine shall be imposed on its maximum period.* (PM proposal)
5

6
7 **TITLE IV**
8 **EMPLOYMENT OF SPECIAL GROUP OF WORKERS**

9
10 **CHAPTER I**
11 **EMPLOYMENT OF ELDERLY**

12 *Article 93. COVERAGE. – This chapter shall apply to all persons rendering service of an*
13 *employee beyond the age of sixty (60) years old, called as “elderly workers”.* (PM proposal)

14 *Article 94. PROHIBITIONS. – No employee beyond the age of sixty (60) years old shall be*
15 *required or permitted or suffered to work, with or without compensation under the following*
16 *circumstances:*

- 17 (a) *Strenuous or hazardous work;*
18 (b) *Compulsory overtime or night shift work;*
19 (c) *Any establishment without appropriate amenities necessary or required to ensure the*
20 *safety of the elderly workers while in the performance of their job; and*
21 (d) *In any case, the number of hours work by the elderly worker should be regulated under*
22 *the circumstances.* (PM proposal)

23 *Article 95. PROHIBITION AGAINST ELDERLY WORKER DISCRIMINATION. – No*
24 *employer shall discriminate against any person in respect to terms and condition of employment*
25 *on account of his/her age.* (PM proposal)

26 *Article 96. PENAL PROVISIONS. – Commission of any prohibited act as provided in the*
27 *preceding article shall be penalized of not less than six (6) years nor more than eight (8) years, or*
28 *fine of not less than fifty thousand pesos (P50, 000) nor more than one hundred thousand pesos*
29 *(P100, 000), or both such fine and imprisonment at the discretion of the Labor court. Provided*
30 *that in case of violation of paragraphs 5 and 6 of this article the criminal penalty and fine shall*
31 *be imposed on its maximum period.* (PM proposal)
32

33 **CHAPTER II**
34 **EMPLOYMENT OF PHYSICALLY CHALLENGED WORKERS**

35
36 *Article 97. DEFINITION. – Physically challenged workers are those whose earning capacity is*
37 *impaired by physical or mental retardation.* (PM proposal)
38

39 *Article 98. EQUAL OPPORTUNITY FOR EMPLOYMENT. – No person with disability shall be*
40 *denied access to opportunities for suitable employment. A qualified physically challenged*
41 *employee shall be subject to the same terms and conditions of employment and the same*
42 *compensation privileges, benefits, fringe benefits, incentives or allowances as a qualified able-*
43 *bodied person.* (PM proposal)
44

Article 99. NON-DISCRIMINATION – *It shall be illegal to discriminate against any person applying for employment on account of his/her physical attributes if such physical deprivation does not in any way relate to the work or task he/she is applying for or shall be designated with.* (PM proposal)

Article 100. ELIGIBILITY FOR APPRENTICESHIP. – *Subject to the provisions of this Code, physically challenged workers shall be eligible as apprentices or interns; provided, that their handicap is not much as to effectively impede the performance of job operations in a particular occupation for which they are hired; Provided further that after the lapse of the period of apprenticeship, if found satisfactory in the job performance, they shall be eligible for job employment.* (PM proposal)

CHAPTER III **EMPLOYMENT OF HOUSEHOLD HELPERS**

(Chapters III, III-A, III-B, III-C: Based on House Bill HB 5804 “Household helpers”/Committee Report No. 1309)

Article 101. COVERAGE. – *This chapter shall apply to all persons rendering services in households for compensation.*

“Domestic or household service” shall mean services in the employer’s home which is usually necessary or desirable for the maintenance, enjoyment and convenience of the members of the employer’s household, including services of family drivers.

Article 102. EMPLOYMENT CONTRACT. –*An employment contract shall be executed by and between the household dialect or language understandable by both parties. It must be duly signed and notarized. Each party must have a copy of the said contract.*

A contract shall have the following provisions;

- (a) The period of employment which shall not exceed two years and renewable annually;*
- (b) The monthly compensation and mode of payment.*
- (c) Allowable leave, rest days and holidays;*
- (d) Working hours, rest periods and day off;*
- (e) Living quarters and food and medical provisions;*
- (f) Duties and responsibilities;*
- (g) Social Security System (SSS) and Philippine Health Insurance Corporation Contributions;*
- (h) Annual salary increase.*

Provided that in case of employment of a house helper of minority age, said contract of employment shall be signed on his/her behalf by either parent or legal guardian, with the express consent of the minor.

Article 103. MEDICAL CERTIFICATES AS A PRE-REQUISITES TO EMPLOYMENT. – *A medical certificate attesting to the mental and physical fitness of the house helper 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.*

Article 104. MINIMUM WAGE FOR HOUSEHOLD HELPERS. – The minimum compensation of a house helper shall not be less than the following rates:

- (a) One thousand five hundred pesos (P1,500) a month for a household helper in the NCR;
- (b) One thousand two hundred pesos (P1,200) a month for those employed in other chartered cities and municipalities;
- (c) One thousand pesos (P1,000) a month for those employed in other municipalities.

Article 105. PAYMENT OF WAGES. – Wages shall be paid in cash directly household helper, 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 express written consent of the household helper shall first be secured before any deduction from his/her wages is made.

Article 106. PAYMENT OF 13TH MONTH PAY. – All household helpers shall be entitled to a 13th month pay equivalent to one (1) month salary, which shall be payable not later than December 24 of every year.

Article 107. MEMBERSHIP IN THE SOCIAL SECURITY SYSTEM (SSS). – All household helpers shall be covered by the SSS and be entitled to all accordance with the pertinent provisions of R.A. No. 1161, as amended.

The SSS shall establish an outreach program that will facilitate the remittance of the contributions of the house helpers and the employer through the most feasible means. This outreach program shall be conceptualized and initiated within one year from the date of effectivity hereof.

Article 108. MEMBERSHIP IN THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH). – All household helpers regardless of age and compensation levels, shall be covered under the Philippine Health Insurance Corporation (PHILHEALTH) and be entitled to all benefits provided for under the law. The employer of the said house helper shall pay for the employer's share of the aforementioned PHILHEALTH, without deducting the same from the monthly compensation of the house helper.

Article 109. NORMAL HOURS OF WORK. – The normal hours of work of house helpers shall not exceed ten (10) hours a day, exclusive of breaks of one (1) hour each for breakfast, lunch and dinner. Any work done by the house helper beyond the normal hours of work shall be compensated by the house hold employer. In addition the house helper shall be allowed at least eight (8) hours of continuous rest per day.

Article 110. REGULAR WORKING DAYS. – All household helpers shall render work for not more than six consecutive days per week. While the specific day of the week set aside as rest day for the house helper may be stipulated in the employment contract, the same may be changed for a different day of the week upon the mutual agreement of the employer and the household helper as the exigencies of the household may dictate: Provided that the employer shall respect the preference of the house helper for his/her weekly rest day when said preference is based on religious grounds.

Article 111. VACATION LEAVE. – All house helpers who had rendered one year of service shall be entitled to an annual fourteen (14) days vacation leave with pay; Provided that any unused

1 *portion of said vacation leave shall not be cumulative or shall not be carried over to the next*
2 *succeeding years.*

3 **Article 112. MATERNITY AND PATERNITY BENEFITS.** – *All female house helpers who have*
4 *rendered and aggregate length of service of two (2) years or more, shall in addition to leaves*
5 *granted them, be entitled to maternity leave in accordance with Sec. 14-A of R.A. No. 8282,*
6 *otherwise known as the “Social Security Act”.*

7 *A paternity leave of seven (7) days with pay shall be granted to all married male*
8 *household helpers when his legitimate spouse delivers a child or suffers a miscarriage.*

9 **Article 113. DEPLOYMENT EXPENSES.** – *Deployment expenses of house helpers, which may*
10 *include transportation and agency fees, shall be shouldered by the employer.*

11 **Article 114. TERMINATION OF SERVICE.** – *If the period for household helper is fixed, neither*
12 *the employer nor the household helper may terminate the contract before the expiration of the*
13 *term except for just cause. If the house helper is unjustly dismissed, he or she shall be paid the*
14 *compensation already earned plus the equivalent of fifteen days work by way of indemnity.*

15 *If the house helper leaves without justifiable reason, he/she shall forfeit any unpaid salary*
16 *due him or her not exceeding fifteen (15) days of work.*

17 **Article 115. STANDARD TREATMENT.** – *The employer and the members of the household*
18 *shall, at all times, treat the house helper in a just and humane manner. In no case shall abusive*
19 *language, physical violence or any act which debases, degrades and demeans the intrinsic worth*
20 *and dignity of the household helper as a human being be used against the latter.*

21 **Article 116. EXTENT OF DUTY.** – *The employer may request the household helper to perform a*
22 *task outside his/her household for the benefit of another with the consent of the household helper*
23 *and payment of just compensation.*

24 **Article 117. PROHIBITION ON LABOR SUB-CONTRACTING.** – *The employer shall be*
25 *prohibited from subcontracting the service of the household helper to any third party or*
26 *household.*

27 **Article 118. PROHIBITION ON RECRUITMENT AND FINDER’S FEES.** – *Regardless of*
28 *whether the household helper was sourced either through an employment agency or a third party,*
29 *said household helper shall not be charged nor levied a share in the recruitment fees or finder’s*
30 *fees by the said employment agency or any third party.*

31 **Article 119. BASIC NECESSITIES.** – *In a manner befitting the means of a responsible head of*
32 *the Family, the homeowner shall provide for the basic necessities of the household helper. These*
33 *shall include:*

34 *(a) Food—at least three adequate meals per day;*

35 *(b) Shelter—provision of humane sleeping arrangements that ensure privacy and safety of the*
36 *household helper; and*

1 (c) *Medical - advance of the necessary funds to cover work-related illnesses or injuries*
2 *sustained by the household helper to be reimbursed by the latter from the proceeds of the*
3 *benefits accruing from his/her membership in the SSS.*

4 *In no instance shall the employer be allowed to withdraw or hold in abeyance the*
5 *provision of these basic necessities as punishment or disciplinary action meted out to the*
6 *household helper.*

7 **Article 120. GUARANTEE OF HOUSEHOLD HELPER'S PRIVACY.** - *The employer shall*
8 *respect the privacy of the household helper during the course of the latter's rest period. The*
9 *household helper right to privacy shall extend to any and all forms of communications, including*
10 *letters, correspondence, phone calls, and text messages.*

11 **Article 121. ACCESS TO OUTSIDE COMMUNICATION.** - *The employer shall grant the*
12 *household helper access to outside communication, either through letters or telephone, especially*
13 *in cases of personal or family emergency. Further the employer shall guarantee the household*
14 *helper access to the household private telephone for the purpose of communicating with the*
15 *latter's family at least once a week; Provided that the costs incurred for long distance or overseas*
16 *calls shall be shouldered by the household helper.*

17 **Article 122. PROHIBITION ON BONDED LABOR.** - *It shall be prohibited for the employer to*
18 *use future services as collateral for the loan or advances made by the household helper. Likewise,*
19 *it shall be prohibited for the employer to bind the household helper for his/her continuous*
20 *employment as a form of payment for any loan or advances made by the latter. Should a*
21 *household helper with an outstanding loan or advance decide to unilaterally terminate his/her*
22 *contract, he/she shall pay said loan or advance under terms and conditions specified in duly*
23 *executed promissory note executed between the parties.*

24 **Article 123. ACCESS TO LAWFUL THIRD PARTY MEDIATION.** - *Upon employment, the*
25 *employer shall furnish the household helper with the names, addresses of the following:*

- 26 (a) *Department of Labor and Employment and the regional offices of DOLE having*
27 *jurisdiction over the area of employment of the household helper.*
28 (b) *Barangay office which has jurisdiction over the household; and*
29 (c) *Duly registered non government organizations accredited to mediate in the employee-*
30 *employer disputes involving household helpers and their employers.*

31 *The employer shall further guarantee the household helper access to all means of*
32 *communication to be able to contact any of the above institutions.*

33 **Article 124. PENAL PROVISIONS.** - *Any violation of the provisions of this act shall be punished*
34 *with a fine of not less than five thousand pesos (P5,000) nor more than twenty thousand pesos*
35 *(P20,000), or imprisonment of not less than three (3) months nor more than three (3) years, or*
36 *both such fine and imprisonment, at the discretion of the Labor court.*
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CHAPTER III-A
SPECIAL RIGHTS AND PRIVILEGES OF HOUSEHOLD HELPERS OF MINORITY
AGE

Article 125. ALLOWABLE EMPLOYMENT OF HOUSEHOLD HELPER OF MINORITY AGE.- *Children fifteen years of age to seventeen years of age may be employed as household helpers. In no way shall children below fifteen years of age be employed as household helpers.*

Article 126. CHILDREN OF HOUSEHOLD HELPERS. – *Unless expressly employed as household helpers, children of household helpers 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 household helpers themselves.*

Article 127. NORMAL HOURS OF WORK. – *Household helpers of minority age shall not be allowed to render work for than ten (10) hours a day and more than five (5) days per week. He/she shall be allowed breaks of not less than one (1) hour each for breakfast, lunch and dinner.*

Article 128. PROHIBITION ON NIGHT WORK. – *Household helpers of minority 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.*

Article 129. PROHIBITION ON THE WORK TO BE UNDERTAKEN. – *Household helper of minority age shall not be allowed to render work beyond their mental and physical capabilities and in no way shall undertake any hazardous work, activity or undertaking, and neither will he/she be exposed to hazardous working conditions.*

Article 130. MINIMUM WAGE. – *Household helpers of minority age shall be paid the same minimum wage rate prescribed in this Code for household helpers.*

Article 131. RIGHT OF THE CHILD TO WAGES EARNED. – *All wages, remuneration or compensation earned by a household helper of minority age during the period of his/her employment shall be paid by the employer directly to the him/her.*

No parent, guardian or relative shall be allowed to borrow against the compensation of the household helper of minority age without the expressed, written or oral consent of the latter. Neither shall the minor be made to render work in payment of a loan or liability incurred by a parent, guardian or relative.

Article 132. RESCUE OF ABUSED HOUSEHOLD HELPER OF MINORITY AGE. –*Upon report or discovery of abuse and exploitation of a household helper of minority age, the Department of Labor and Employment, in collaboration with other concerned agencies, shall immediately rescue the said minor. The rescued minor shall be supervised and escorted back to his/her parent, legal guardian or relatives. The cost of such operation shall be borne by the agency which recruited or deployed the house helper. The Secretary of the Department of Labor and Employment in coordination with the Philippine National Police and the Department of Social Welfare and Development, shall formulate the rules and regulations governing such rescue operation.*

1 **Article 133. PROTECTIVE CUSTODY AND PLACEMENT OF RESCUED HOUSE HELPER**
2 **OF MINORITY AGE.** – Should a household helper of minority age refuse to be brought back to
3 his or her parent, legal guardians or relatives, said household helper may be placed under the
4 protective custody of the Department of Social Welfare and Development or of other concerned
5 agencies or that of duly-recognized and accredited non-government organization or placed in a
6 suitable household for employment.

7 **CHAPTER III-B**
8 **RIGHTS AND PRIVILEGES OF SELF-EMPLOYED, PART TIME OR DAY-TO-DAY**
9 **HOUSEHOLD HELPERS**

10 **Article 134. SCOPE OF WORK TO BE UNDERTAKEN.** – Prior to the commencement of any
11 work to be undertaken by the household helper, both employer and household helper shall
12 mutually agree on the scope of work, period of time within which the work must be completed,
13 the amount of compensation to be paid and the manner by which the compensation is to be made.

14 **Article 135. PAYMENT FOR WORK.** – Unless the parties had agreed otherwise, prior to the
15 commencement of any work, compensation for the work completed, to the satisfaction of the
16 employer, shall be in the form of cash, paid directly by the employer to the household helper,
17 immediately upon completion of the work.

18 Where the method of payment of wages agreed upon by the employer and household
19 helper is on a piece or output basis, the rates shall be such that will assure the household helper
20 of the minimum monthly or the equivalent pay rate as provided in this Code.

21 **Article 136. NORMAL HOURS OF WORK.** – The period of time within which the work must be
22 completed by the household helper shall be mutually agreed upon by the parties prior to the
23 commencement of the work; Provided that the household helper shall not be required to render
24 work for a period longer than ten hours per day exclusive of breaks of one (1) hour each for
25 meals.

26 **Article 137. PROVISION FOR FREE MEALS.** – The employer shall provide the household
27 helper with meals free of charge during the hours of work.

28 **Article 138. MEDICAL EXPENSES.** – All medical expenses incurred for work related illnesses
29 contracted or injuries sustained by the household helper shall be shouldered by the employer.

30 **Article 139. TRANSPORTATION EXPENSES** – negotiable subsidy by employer

31 **CHAPTER III-C**
32 **SPECIAL PROVISION FOR THE EDUCATION OF HOUSEHOLD HELPERS**

33 **Article 140. OPPORTUNITY FOR SELF-IMPROVEMENT.** – The employer shall allow the
34 household helper who is eighteen (18) years of age or above to pursue his/her education. The cost
35 of such education shall be shouldered by the household helper. Should the household helper
36 decide to pursue his/her education, the employer shall adjust the work schedule in accordance
37 with the former's class schedule. In such case, the household helper compensation may be
38 adjusted on account of his/her pursuit of education.

Article 141. ACCESS TO EDUCATION AND TRAINING. – No household helper of minority age shall be deprived of formal or non-formal education. In cases where household helper of minority age are allowed to be employed, the employer shall allow the said household helper access to public, primary, secondary or vocational education. Said employer may advance all or part of the expenses incidental to the pursuit of such education. The employer shall be reimbursed out of the household helper's monthly compensation. Said deduction shall at times be no greater than twenty percent (20%) of the minor's monthly compensation.

Should the household helper of minority age decide to pursue his/her education, the employer shall adjust his/her work schedule in accordance with the former's class schedule; Provided that the adjustment in schedule shall in no way hamper the completion of the former's task to the satisfaction of the employer. In no case shall the household helper suffer any diminution in compensation in pursuit of his/her education.

Article 142. EDUCATIONAL AND TRAINING PROGRAMS AND CENTERS. – The Department of Labor and Employment in coordination with the Department of Education and the Commission on Higher Education shall design a course curriculum that shall suit the work schedules of household helpers and coordinate with educational centers and institutions where these course curriculum can be accommodated and accessed by household helpers who would want to enroll.

Article 143. PENAL PROVISIONS. – Any violation of the provisions of this act shall be punished with a fine of not less than five thousand pesos (P5,000) nor more than twenty thousand pesos (P20,000), or imprisonment of not less than three (3) months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the Labor court.

CHAPTER IV

EMPLOYMENT OF MINORS

(Provisions under this Chapter are new: based on R.A. 7658 "Employment of Children")

Article 144. EMPLOYMENT OF MINOR. - Children below fifteen years of age shall not be employed except:

- a. When a child works directly under the sole responsibility of his/her parents or legal guardian and where only members of the employer's Family are employed; Provided, however that, his/her employment neither endangers his/her life, safety and morals, nor impairs his/her normal development; Provided, further that the parent or legal guardian shall provide the said minor child with the prescribed primary and secondary education; or
- b. Where a child's employment or participation in public entertainment or information through cinema, theatre, radio or television is essential provided that employment contract is concluded by the child's parents or legal guardian with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: and provided that the following requirements in all instances are strictly complied with:
 - i. The employer shall ensure the protection, health safety, moral and normal development of the child;

- ii. *The employer shall institute measures to prevent the child's exploitation or discrimination, taking into account the system and level of remuneration, and the conditions and arrangement of working time; and*
- iii. *The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child.*

In the above exceptional cases where any such child may be employed, the employer shall first secure before engaging such child, a work permit from the Department of Labor and Employment which shall ensure the observance of the above requirements.

Article 145. PROHIBITION ON EMPLOYMENT. –

- a. *The provisions of this chapter shall in no case allow the employment of a person below eighteen (18) years of age in an undertaking which is hazardous or deleterious in nature.*
- b. *No person shall employ talents or models below the majority age of eighteen (18) years old in all commercials or advertisements through cinema, theatre, radio, television or print media, billboards or sign board, promoting alcoholic beverages, intoxicating drinks, tobacco and its by products, with sexual and violent undertones.*

Article 146. PENAL PROVISION. – Violation of any provision of this chapter, shall be punished by imprisonment of not less than two (2) years nor more than six (6) years, or fine of not less than fifty thousand pesos (P50,000) nor more than one hundred thousand pesos (P100,000), or both such fine and imprisonment at the discretion of the labor court.

CHAPTER V
EMPLOYMENT OF HOMEWORKERS
(This chapter is based on PM Proposal)

Article 147. COVERAGE. *This chapter shall apply to any person who performs industrial work for an employer, contractor or sub-contractor in the premises of his/her place of residence or within the vicinity of a residential community.* (PM proposal)

Article 148. DEFINITION. – *As used in this Chapter, the following terms shall have the meaning indicated hereunder:*

- a. ***“Industrial Homework” is a system of production under which work for an employer or contractor is carried out by a homemaker at his/her home. Materials may or may not be furnished by the employer or contractor.***

It differs from regular factory production principally in a sense that, it is a decentralized form of production where there is ordinarily very little supervision or regulation of methods of work.

- b. *“Industrial Homeworker” means a worker who is engaged in industrial homework.*
- c. *“Home” means any room, house, apartment or other premises used regularly, in whole or in part, as a dwelling place, except those situated within the premises or*

1 *compound of an employer, contractor or subcontractor and the work performed*
2 *therein is under the active or personal supervision by or for the latter.*

- 3 d. *“Employer” means any natural or artificial person who, for his/her own account or*
4 *benefit, or on behalf of any person residing outside the Philippines, directly or*
5 *indirectly, or through any employee, agent, contractor, subcontractor, or any other*
6 *person:*
- 7 i. *Delivers or causes to be delivered any goods, articles or materials to be*
8 *processed or fabricated in or about a home and thereafter to be*
9 *returned or to be disposed of or distributed in accordance with his/her*
10 *director; or*
 - 11 ii. *Sells any goods, articles or materials for the purpose of having such*
12 *goods or articles processed in or about a home and then repurchases*
13 *them himself/herself or through another after such processing.*
- 14 e. *“Contractor” or “subcontractor” means any person who, for the account or benefit of*
15 *an employer, delivers or causes to be delivered to a homeworker goods or articles to be*
16 *processed in or about his home and thereafter to be returned, disposed of or*
17 *distributed in accordance with the direction of the employer.*
- 18 f. *“Processing” means manufacturing, fabricating, finishing, repairing, altering,*
19 *packing, wrapping or handling in any way connected with the production or*
20 *preparation of an article or material.*
- 21 g. *“Cooperative” is an association registered under the Cooperative Code of the*
22 *Philippines.*
- 23 h. *“Department” means the Department of Labor and Employment. (Based on Book III,*
24 *Rule XIV of the IRR of the LC)*

25 **Article 149. SELF-ORGANIZATION.** – *Homeworkers shall have the right to form, join or assist*
26 *organization of their own choosing, in accordance with law. (Based on Book III, Rule XIV of the*
27 *IRR of the LC)*

28 **Article 150. REGISTRATION OF HOMEWORKERS ORGNIZATION.** – *Any applicant*
29 *homeworker organization or association shall acquire legal personality, and shall be entitled to*
30 *the rights and privileges granted by law to legitimate labor organizations upon issuance of the*
31 *certificate of registration based on the following requirements:*

- 32 a. *Fifty Pesos (P50.00) registration fee;*
- 33 b. *The names of its officers, their addresses, the principal address of the homeworkers*
34 *organization, the minutes of the organizational meetings and the list of workers who*
35 *participated in such meetings;*
- 36 c. *The names of all its members comprising at least 20 percent of all the workers in the*
37 *bargaining unit where it seeks to operate, if applicable;*
- 38 d. *If the applicant has been in existence for one or more years, copies of its annual*
39 *financial reports; and*
- 40 e. *Four copies of the constitution and by-laws of the applicant organization, the minutes*
41 *of its adoption or ratification and the list of members who participated in it. (Based on*
42 *Book III, Rule XIV of the IRR of the LC)*

43 **Article 151. PAYMENT FOR HOMEWORKER.** – *Immediately upon receipt of furnished goods*
44 *or article, the employer shall pay the home worker or the contractor or subcontractor, as the case*
45 *may be, for the work performed less the corresponding home worker’s share of the SSS,*
46 *MEDICARE, and ECC premium contributions which shall be remitted by the contractor or sub-*

contractor or employer to the SSS with the employer's share, however, where payment is made to a contractor or subcontractor the home worker shall likewise be paid immediately after the goods or articles have been collected from the workers. (Based on Book III, Rule XIV of the IRR of the LC)

Article 152. MINIMUM RATES. – Contractor or sub-contractor employing home workers shall comply with the minimum standard output rate or standard minimum rate in appropriate orders for the particular work or processing to be performed by the home workers; provided that the total wage of a home worker in one day shall not fall below the prescribed minimum wage levels applicable to them.

The standard output rates or piece rates shall be determined by time and motion studies; individual/ collective agreement between the employer and its workers; and consultation with representatives of employers and workers organization.

Minimum standard output rate or standard minimum rate shall in no case be less than the equivalent of the minimum wage provided by the law. (PM proposal)

Article 153. DEDUCTIONS. – No employer, contractor, or subcontractor shall make any deduction from the homemaker's earnings for the value of materials, which have been lost, destroyed, soiled or otherwise damaged unless the following conditions are met:

- a. The homemaker concerned is clearly shown to be responsible for the loss or damage;
- b. The homemaker is given reasonable opportunity to show cause why deductions should not be made;
- c. The amount of such deduction is fair and reasonable and shall not exceed the actual loss or damage; and
- d. The deduction is made at such rate that the amount deducted does not exceed twenty percent (20%) of the homemakers's earnings in a week. (Based on Book III, Rule XIV of the IRR of the LC)

Article 154. PROHIBITION FOR HOME WORKER. – No homework shall be performed on the following:

- a. Explosives, fireworks and articles of like character;
- b. Drugs and poisons; and
- c. Other articles, the processing of which requires exposure to toxic substances. (Based on Book III, Rule XIV of the IRR of the LC)

Article 155. PENAL PROVISION. – Violation of any provision of this chapter, shall be punished by imprisonment of not less than two (2) years nor more than six (6) years, or fine of not less than fifty thousand pesos (P50,000) nor more than one hundred thousand pesos (P100,000), or both such fine and imprisonment at the discretion of the labor court. (PM proposal)

TITLE V
OCCUPATIOAL HEALTH AND SAFETY STANDARDS

CHAPTER I
MEDICAL AND DENTAL SERVICES

Article 156. HEALTH PROGRAM. –The physician engaged by an employer shall, in addition to his/her duties under this chapter, develop and implement a comprehensive occupational health program for the benefit of the employees of his/her employer ***and the same shall be submitted to the Department of Labor and Employment, Department of Health and the Union.*** (PM proposal: Formerly Art. 159 of LC)

Article 157. FIRST AID TREATMENT. – ***Every employer shall keep in his/her establishment such first-aid medicines and equipment as the nature and condition of work may require.*** (PM proposal “..in accordance with such regulations as the DOLE shall prescribe”—deleted from Art. 156 of LC)

For purposes of this Article “First-aid medicines” shall consist of the required standard medicines needed to be maintained in first-aid kit as provided by the Department of Health, which shall include, but not limited to, medicines for cold, fever, headache, toothache, body pains, bruises, sprain, hypertension and the like. (PM proposal: additional paragraph incorporated to Art. 156 of LC)

The employer shall take steps for the training of a sufficient number of employees in first-aid treatment.

Article 158. EMERGENCY MEDICAL AND DENTAL SERVICES. – It shall be the duty of every employer to furnish his/her employees in any locality with free medical and dental allowance and facilities consisting of:

- (a) The services of a full-time registered nurse when the number of employees exceeds ***twenty-five (25) but not more than one hundred (100), if the number of employees does not exceed twenty-five (25) the services of a graduate first-aider shall be provided for the workers.*** (PM proposal: old “exceeds 50 not more than 200” and deleted last sentence of Art. 157[a] of LC)
- (b) The services of a full-time registered nurse, a part-time physician and dentist and an emergency clinic, ***when the number of employees exceeds one hundred (100) but not more than two-hundred (200);*** and (PM proposal: old “exceeds 200 not more than 300” par (b) of Art. 157 LC)
- (c) The services of a full time physician, dentist and a full-time nurse as well as a dental clinic and an infirmary or emergency hospital with one bed capacity for every ***fifty (50) employees when the number of employees exceeds two hundred (200).*** (PM proposal: old “fifty (50) employees when the number of employees exceeds 300” par (c) of Art. 157 LC)

No employer shall engage the services of a physician or dentist who cannot stay in the premises of the establishment for at least ten (10) hours a week, in case of those engaged on part-time basis, and not less than eight (8) hours per day for those employed on full-time basis. (PM

proposal: delete “In case of hazardous workplace” xxxx and last sentence of Art. 157[c], paragraph 2)

Article 159. **WHEN EMERGENCY HOSPITAL NOT REQUIRED.** – The requirement for an emergency hospital or clinic, which is accessible from the employer establishment and his/her makes arrangement of the reservation therein of the necessary beds and dental facilities for the use of his/her employee.

For purposes of this Article, “accessible” means that hospital or clinic must be within one (1) kilometer radius from the employer’s establishment. (PM proposal: additional par incorporated to Art. 158 of LC)

Article 160. **QUALIFICATION OF HEALTH PERSONNEL.** – The physicians, dentists and nurses employed by the employer pursuant to this chapter *shall be certified by the occupational health and safety of the Department of Labor and Employment and shall have necessary training in industrial medicine and occupational safety and health.* (PM proposal: italics incorporated and deleted the last sentence of Art. 160 of the LC)

Article 161. **ASSISTANCE OF EMPLOYER.** – It shall be the duty of any employer to provide all the necessary assistance to ensure the adequate and immediate medical and dental attendance and treatment to an injured or sick employee, *which include emergency service vehicle to provide the transport in emergency cases.* (PM proposal: italics incorporated to Art. 161 of LC)

Article 162. **PENAL PROVISION.** – *Employers, which shall include president, vice-president, directors, manager, and all other responsible officers, violating any of the provisions under this chapter shall be punished of not less than one (1) year nor more than two (2) years, or a fine of not less than five thousand pesos (P5, 000) nor more than ten thousand pesos (P10,000), or both such fine and imprisonment, at the discretion of the labor court.* (PM proposal)

CHAPTER II

OCCUPATIONAL HEALTH AND SAFETY

Article 163. **HEALTH AND SAFETY STANDARDS.** – The employer shall set and enforce mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all work places and institute new and update existing, programs to ensure safe and healthful working conditions in all places of employment.

For purposes of occupational health and safety standards, under this Article, the employer shall provide his/her employee appropriate protective gear necessary or demanded in the performance of job, including but not limited to safety shoes, hat or head covering, uniform, masks, gloves and the like. (PM proposal: italics incorporated to Art. 162 of LC)

Article 164. **RESEARCH.** – It shall be the responsibility of the Department of Labor and Employment to conduct continuing studies and research to develop innovative methods, techniques and approaches for dealing with occupational safety and health problems; to discover latent diseases and work in environmental conditions; and to develop medical criteria which will assure in so far as practicable that no employee will suffer impairment or diminution in health, functional capacity, or life expectancy as a result of work and his working conditions.

Article 165. **TRAINING PROGRAMS.** – The Department of Labor and Employment shall develop and implement training programs to increase the number and competence of personnel in the field of occupational safety and industrial health.

Article 166. **ADMINISTRATION OF SAFETY AND HEALTH LAWS.** -

- (a) The Department of Labor and Employment shall be solely responsible for the administration and enforcement of occupational safety and health laws, regulations and standards in all establishments and work places wherever they may be located; however, chartered cities may be allowed to conduct industrial safety inspections of establishments within their respective jurisdiction where they have adequate facilities and competent personnel for the purpose as determined by the Department of Labor and Employment and subject to national standards established by the latter.
- (b) The Secretary of the Department of Labor and Employment may, through appropriate regulations collect reasonable fees for the inspection of steam boilers, pressure vessels and piping and electrical installations, the test and approval for the safe use of materials, equipment and other safety devices and the approval of plans for such materials, equipment and other safety devices. The fees so collected shall be deposited in the national treasury to the credit of the occupational safety and health fund and shall be expended exclusively for the administration and enforcement of safety and other labor laws administered by the Department of Labor and Employment.

TITLE VI

EMPLOYEES COMPENSATION AND STATE INSURANCE FUND

CHAPTER I

POLICY AND DEFINITIONS

Article 167. **POLICY.** – The State shall promote and develop a tax-exempt employees' compensation program whereby employees and their dependents, in the event of work connected disability or death may promptly secure adequate income, benefit and medical or related benefits.

Article 168. **DEFINITION OF TERMS.** – As used in this title unless the context indicates otherwise;

- (a) **“Commission”** means the Employees Compensation Commission created under this title.
- (b) **“SSS”** means the Social Security System created under Republic Act No. Eleven Hundred Sixty-One, as amended (RA no. 1161, as amended)
- (c) **“GSIS”** means the Government Service Insurance System created under Commonwealth Act No. One Hundred Eighty-Six as amended (CA No. 186 as amended.)
- (d) **“System”** means the SSS or GSIS as the case may be.
- (e) **“Employer”** means any person, natural or juridical, employing the services of the employee.
- (f) **“Employee”** means any person compulsorily covered by the GSIS under Commonwealth Act No. 186, as amended, including members of the Armed Forces of the Philippines and any person employed as casual, emergency, temporary, substitute or contractual, or any person compulsorily covered by the SSS under Republic Act No. Eleven Hundred Sixty-One, as amended(RA No. 1161, as amended)

- (g) **“Person”** means any individual, partnership, firm, association, trust corporation or legal representative thereof.
- (h) **“Dependent”** means the legitimate, legitimated or legally adopted or acknowledged natural child who is unmarried, not gainfully employed and not over twenty –one (21) years of age or twenty-one (21) years of age provided he is incapacitated and incapable of self-support due to a physical or mental defect which is congenital or acquired during minority; the legitimate spouse living with the employee; and the parents of the said employee wholly dependent upon him for regular support.
- (i) **“Beneficiaries”** means the dependent spouse until he/she remarries and dependent children who are the primary beneficiaries. In their absence, the dependent parents, and subject to the restrictions imposed on dependent children, the illegitimate children and legitimate descendants who are the secondary beneficiaries; Provided, That the dependent acknowledged natural child shall be considered as a primary beneficiary when there are no other dependent children who are qualified and eligible for monthly income benefit. (As amended by Sec. 1, PD 1921)
- (j) **“Injury”** means any harmful change in the human organism from any accident arising out of and in the course of the employment.
- (k) **“Sickness”** means any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof that the risk of contracting the same is increased by the working condition.
- (l) **“Death”** means loss of life resulting to injury or sickness.
- (m) **“Disability”** means loss or impairment of a physical or mental function resulting from physical or mental illness.
- (n) **“Compensation”** means all payments made under this title for income benefits, and medical or related benefits.
- (o) **“Income benefit”** means all payments made under this Title to the employee or his dependents.
- (p) **“Medical Benefit”** means all payments made under this title to the provider of medical care, rehabilitation services and hospital care.
- (q) **“Related benefit”** means all payments made under this title to the for appliances and supplies.
- (r) **“Appliances”** means crutches, artificial aids and other similar devices.
- (s) **“Supplies”** means medicine and other medical, dental or surgical items.
- (t) **“Hospital”** means any medical facility, government or private, authorized by law, an active member in good standing of the Philippine Hospital Association and accredited by the Commission.
- (u) **“Physician”** means any doctor of medicine, duly licensed to practice in the Philippines, an active member in good standing of the Philippine Medical Association and accredited by the Commission.
- (v) **“Wages”** or **“Salary”** insofar as they refer to the computation of benefits, means the monthly recommendation as defined in Republic Act No. 1161, as amended for SSS and Presidential Decree No. 1146, as amended, for GSIS respectively, except that part in excess of three thousand pesos (P3,000).
- (w) **“Monthly Salary Credit”** means the wage or salary base for contributions as provided in RA No. 1161, as amended, or the wages or salary.
- (x) **“Average Monthly Salary Credit”**-(as amended by sec. 8 m of RA8282) the result obtained by dividing the sum of the last sixty (60) monthly salary credits, immediately preceding the semester of contingency by sixty (60), or the result obtained by dividing the sum of all the monthly salary credits paid prior to the semester of contingency by the number of monthly contributions paid in the same period, which ever is greater; Provided,

- 1 that the injury or sickness which caused the disability shall be deemed as the permanent
2 disability for the purpose of computing the average monthly salary credit.
- 3 (y) **“Average Salary Credit”**-The result obtained by dividing the sum of the six (6) highest
4 monthly salary credits in the twelve-month period immediately preceding the semester of
5 contingency but not to exceed twenty-two (22) days.
- 6 (z) **“Quarter”** means a period of three (3) consecutive months ending on the last days of
7 March, June, September and December.
- 8 (aa) **“Semester”** means a period of two (2) consecutive quarters ending in the quarter of
9 death, permanent disability, injury or sickness.
- 10 (bb) **“Replacement ratio”** means the sum of twenty percent (20%) and the quotient
11 obtained by dividing three hundred (300) by the sum of three hundred forty (340) and the
12 average monthly salary credit.
- 13 (cc) **“Credited years of service”** means for a member covered prior to January Nineteen
14 Hundred Seventy-Five (1975) up to the Calendar year containing the semester prior to the
15 contingency. For a member covered on or after January 1975, the number of calendar years
16 in which six(6) or more contributions have been paid from the year of coverage up to the
17 calendar year containing the semester prior to the contingency.
- 18 (dd) **“Monthly income benefit”** means the amount equivalent to One hundred fifteen
19 percent (115%) of the sum of the average monthly salary credit multiplied by the
20 replacement ratio and one and a half percent (1.5%) of the average monthly salary credit for
21 each credited year of service in excess of ten years; Provided, that the monthly income
22 benefit shall in no case be less than two hundred fifty pesos (P250.00)

23

24 CHAPTER II

25 COVERAGE AND LIABILITY

26

27 Article 169. **COMPULSORY COVERAGE.** – Coverage in the State Insurance Fund shall be
28 compulsory upon all employer and their employees not over sixty (60) years of age. Provided, that
29 an employee who is over sixty (60) years of age and paying contributions to qualify for the
30 retirement or life insurance benefit administered by the System shall be subject to compulsory
31 coverage.

32

33 Article 170. **FOREIGN EMPLOYMENT.** – The Commission shall ensure adequate coverage of
34 Filipino employees employed abroad, subject to regulations as it may prescribe.

35

36 Article 171. **EFFECTIVE DATE OF COVERAGE.** – Compulsory coverage of the employer
37 during the effectivity of this Title shall take effect on the first day of his operation, and that of the
38 employee on the day of his employment.

39

40 Article 172. **REGISTRATION.** – Each employer and his employees shall register with the System
41 in accordance with its regulations.

42

43 Article 173. **EXTENT OF LIABILITY.** – Unless otherwise provided, the liability of the State
44 Insurance Fund under this Title shall be exclusive and in place of all other liabilities of the employer
45 to the employee, his dependents or anyone otherwise entitled to receive damages on behalf of the
46 employee or his dependents. The payment of compensation under this Title shall not bar the
47 recovery of benefits as provided for in Section 699 of the Revised Administrative Code, Republic
48 Act Numbered Eleven hundred sixty-one, as amended, Republic Act Numbered Forty-eight hundred
49 sixty-four as amended, and other laws whose benefits are administered by the System or by other
50 agencies of the government. (As amended by Presidential Decree No. 1921).

Article 174. **LIMITATION OF LIABILITY.** – The State Insurance Fund shall be liable to the employee, or his dependents except when the disability or death was occasioned by the employee's intoxication, willful intention to injure or kill himself or another, notorious negligence or otherwise provided under this Title.

Article 175. **LIABILITY OF THIRD PARTY/IES.** –

a) When the disability or death is caused by circumstances creating a legal liability against a third party, the disabled employee or the dependents, in case of his death, shall be paid by the System under this Title. In case benefit is paid under this Title, the System shall be subrogated to the rights of the disabled employee or the dependents, in case of his death, in accordance with the general law.

b) Where the System recovers from such third party damages in excess of those paid or allowed under this Title, such excess shall be delivered to the disabled employee or other persons entitled thereto, after deducting the cost of proceedings and expenses of the System.

Article 176. **DEPRIVATION OF BENEFITS.** – Except as otherwise provided under this Title, no contract, regulation or device whatsoever shall operate to deprive the employee or his dependents of any part of the income benefits and medical or related services granted under this Title. Existing medical services being provided by the employer shall be maintained and continuously shall be enjoyed by their employees.

CHAPTER III **ADMINISTRATION**

Article 177. **EMPLOYEES' COMPENSATION COMMISSION.** –

To initiate, rationalize and coordinate the policies of the employee's compensation program, the Employee's Compensation Commission is hereby created to be composed of five ex-officio members, namely: the Secretary of the Department of Labor and Employment as chairman, the GSIS General Manager, the SSS Administrator, the Chairman of the Philippine Medical Care Commission, and the Executive Director of the ECC Secretariat; and ***three (3) appointive members, two (2) of whom shall represent the workers, who shall be selected among the recommendees of the different labor unions, federations and centers, and the other, the employer, to be appointed in a ministerial capacity by the President of the Philippines for a term of six (6) years.*** All vacancies shall be filled for the unexpired term only. (PM proposal: italics incorporated to Art. 176 (a) of LC)

a) The Vice Chairman of the Commission shall be alternated each year between the GSIS General Manager and the SSS Administrator. The presence of four members shall constitute a quorum. Each member shall receive a per diem of two hundred pesos for every meeting that is actually attended by him, exclusive of actual, ordinary and necessary travel and representation expenses. In his absence, any member may designate an official of the institution he serves on full-time basis as his representative to act in his behalf. (As amended by Section 2, Presidential Decree No. 1368).

- b) The general conduct of the operations and management functions of the GSIS or SSS under this Title shall be vested in its respective chief executive officers, who shall be immediately responsible for carrying out the policies of the Commission.
- c) The Commission shall have the status and category of a government corporation, and it is hereby deemed attached to the Department of Labor and Employment for policy coordination and guidance. (As amended by Section 2, Presidential Decree No. 1368).

Article 178. **POWERS AND DUTIES.** – The Commission shall have the following powers and duties:

- a) To assess and fix a rate of contribution from all employers;
- b) To determine the rate of contribution payable by an employer whose records show a high frequency of work accidents or occupational diseases due to failure by the said employer to observe adequate safety measures;
- c) To approve rules and regulations governing the processing of claims and the settlement of disputes arising thereof as prescribed by the System;
- d) To initiate policies and programs toward adequate occupational health and safety and accident prevention in the working environment, rehabilitation other than those provided for under Article 190 hereof, and other related programs and activities, and to appropriate funds therefore; (As amended by Section 3, Presidential Decree No. 1368).
- e) To make the necessary actuarial studies and calculations concerning the grant of constant help and income benefits for permanent disability or death and the rationalization of the benefits for permanent disability and death under the Title with benefits payable by the System for similar contingencies: Provided, That the Commission may upgrade benefits and add new ones subject to approval of the President: and Provided, further, That the actuarial stability of the State Insurance Fund shall be guaranteed: Provided, finally, That such increases in benefits shall not require any increases in contribution, except as provided for in paragraph (b) hereof; (As amended by Section 3, Presidential Decree No. 1641).
- f) To appoint the personnel of its staff, subject to civil service law and rules, but exempt from WAPCO law and regulations;
- g) To adopt annually a budget of expenditures of the Commission and its staff chargeable against the State Insurance Fund: Provided, That the SSS and GSIS shall advance on a quarterly basis, the remittances of allotment of the loading fund for the Commission's operational expenses based on its annual budget as duly approved by the Department of Budget and Management; (As amended by Section 3, Presidential Decree No. 1921).
- h) To have the power to administer oath and affirmation, and to issue subpoena and subpoena *duces tecum* in connection with any question or issue arising from appealed cases under this Title;
- i) To sue and be sued in court;
- j) To acquire property, real or personal, which may be necessary or expedient for the attainment of the purposes of this Title;
- k) To enter into agreements or contracts for such services and as may be needed for the proper, efficient and stable administration of the program;
- l) To perform such other acts as it may deem appropriate for the attainment of the purposes of the Commission and proper enforcement of the provisions of this Title. (As amended by Section 18, Presidential Decree No. 850).

Article 179. **MANAGEMENT OF FUNDS.** – All revenues collected by the System under this Title shall be deposited, invested, administered and disbursed in the same manner and under the same conditions, requirements and safeguards as provided by Republic Act Numbered eleven

hundred sixty-one, as amended, with regard to such other funds as are hereunder being paid to or collected by the SSS and GSIS, respectively: Provided, That the Commission, SSS and GSIS may disburse each year not more than twelve percent of the contribution and investment earnings collected for operational expenses, including occupational health and safety programs, incidental to the carrying out of this Title.

Article 180. **INVESTMENT OF FUNDS.** – Provisions of existing laws to the contrary notwithstanding, all revenues as are not needed to meet current operational expenses under this Title shall be accumulated in a fund to be known as the State Insurance Fund, which shall be used exclusively for payment of the benefits under this Title, and no amount thereof shall be used for any other purpose. All amounts accruing to the State Insurance Fund, which is hereby established in the SSS and GSIS, respectively, shall be deposited with any authorized depository bank approved by the Commission, or invested with due and prudent regard for the liquidity needs of the System. (As amended by Section 4, Presidential Decree No. 1368).

Article 181. **SETTLEMENT OF CLAIMS.** – The System shall have original and exclusive jurisdiction to settle any dispute arising from this Title with respect to coverage, entitlement to benefits, collection and payment of contributions and penalties thereon, or any other matter related thereto, subject to appeal to the **Commission**, which shall decide appealed cases within twenty (20) working days from the submission of the evidence.

Article 182. **REVIEW.** – Decisions, orders or resolutions of the Commission may be reviewed on certiorari by the Supreme Court on question of law upon petition of an aggrieved party within ten (10) days from notice thereof.

Article 183. **ENFORCEMENT OF DECISIONS.** –

- (b) Any decision, order or resolution of the Commission shall become final and executory if no appeal is taken therefrom within ten (10) days from notice thereof. All awards granted by the Commission in cases appealed from decisions of the System shall be effected within fifteen days from receipt of notice.
- (c) In all other cases, decisions, orders and resolutions of the Commission which have become final and executory shall be enforced and executed in the same manner as decisions of the Court of First Instance, and the Commission shall have the power to issue to the city or provincial sheriff or to the sheriff whom it may appoint, such writs of execution as may be necessary for the enforcement of such decisions, orders or resolutions, and any person who shall fail or refuse to comply therewith shall, upon application by the Commission, be punished by the proper court for contempt.

CHAPTER IV **CONTRIBUTIONS**

Article 184. **EMPLOYER'S CONTRIBUTION.** –

- a. Under such regulations as the System may prescribe, beginning on of the last day of the month when an employee's compulsory coverage takes effect and every month thereafter during his employment, his employer shall prepare to remit to the System a contribution equivalent to one percent of his monthly salary credit.

- 1 b. The rate of contribution shall be reviewed periodically and subject to the limitations herein
2 provided, may be revised as the experience in risk, cost of administration and actual or
3 anticipated as well as unexpected losses, may require.
4
5 c. Contributions under this Title shall be paid in their entirety solely by the employer and any
6 contract or device for the deductions of any portion thereof from the wages or salaries of the
7 employees shall be null and void.
8
9 d. When a covered employee dies, becomes disabled or is separated from employment, his
10 employer's obligation to pay the monthly contribution arising from that employment shall
11 cease at the end of the month of contingency and during such months that he is not receiving
12 wages or salary.
13

14
15 Article 186. **GOVERNMENT GUARANTEE.** – The Republic of the Philippines guarantees the
16 benefits prescribed under this Title, and accepts general responsibility for the solvency of the State
17 Insurance Fund. In case of any deficiency, the same shall be covered by supplemental
18 appropriations from the National Government.
19

20
21 **CHAPTER V**
22 **MEDICAL BENEFITS**
23

24 Article 187. **MEDICAL SERVICES.** – Immediately after an employee contracts sickness or
25 sustains an injury, he shall be provided by the System during the subsequent period of his disability
26 or illness with such medical services and appliances as the nature of his sickness or injury and
27 progress of his recovery may require, subject to the expense limitation prescribed by the
28 Commission.

29 Article 188. **LIABILITY.** – The System shall have the authority to choose or order a change of
30 physician, hospital or rehabilitation facility for the employee, and shall not be liable for
31 compensation for any aggravation of the employee's injury or sickness resulting from unauthorized
32 changes by the employee of medical services, appliances, supplies, hospitals, rehabilitation facilities
33 or physicians.

34 Article 189. **ATTENDING PHYSICIAN.** – Any physician attending an injured or sick employee
35 shall comply with all the regulations of the System and submit reports in prescribed forms at such
36 time as may be required concerning his condition or treatment. All medical information relevant to
37 the particular injury or sickness shall, on demand, be made available to the employee or the System.
38 No information developed in connection with treatment or examination for which compensation is
39 sought shall be considered as privileged communication.

40 Article 190. **REFUSAL OF EXAMINATION OR TREATMENT.** – If the employee
41 unreasonably refuses to submit to medical examination or treatment, the System shall stop the
42 payment of further compensation during such time as such refusal continues. What constitutes an
43 unreasonable refusal shall be determined by the System, which may, on its own initiative, determine
44 the necessity, character and sufficiency of any medical services furnished or to be furnished.

45 Article 191. **FEES AND OTHER CHARGES.** – All fees and other charges for hospital services,
46 medical care and appliances, including professional fees, shall not be higher than those prevailing in

wards of hospitals for similar services to injured or sick persons in general and shall be subject to the regulations of the Commission. Professional fees shall only be appreciably higher than those prescribed under Republic Act Numbered sixty-one hundred eleven, as amended, otherwise known as the Philippine Medical Care Act of 1969.

Article 192. REHABILITATION SERVICES. –

- (a) The System shall, as soon as practicable, establish a continuing program, for the rehabilitation of injured and handicapped employees who shall be entitled to rehabilitation services, which shall consist of medical, surgical or hospital treatment, including appliances if they have been handicapped by the injury, to help them become physically independent.
- (b) As soon as practicable, the System shall establish centers equipped and staffed to provide a balanced program of remedial treatment, vocational assessment and preparation designed to meet the individual needs of each handicapped employee to restore him to suitable employment, including assistance as may be within its resources, to help each patient to develop his mental, vocational or social potential.

CHAPTER VI
DISABILITY BENEFITS

Article 193. TEMPORARY TOTAL DISABILITY. –

- a. Under such regulations as the Commission may approve, any employee under this Title who sustains an injury or contracts sickness resulting in temporary total disability shall, for each day of such a disability or fraction thereof, be paid by the System an income benefit equivalent to ninety percent of his average daily salary credit, subject to the following conditions: the daily income benefit shall not be less than Ten Pesos nor more than Ninety Pesos, nor paid for a continuous period longer than one hundred twenty days, except as otherwise provided for in the Rules, and the System shall be notified of the injury or sickness. (As amended by Section 2, Executive Order No. 179).
- b. The payment of such income benefit shall be in accordance with the regulations of the Commission. (As amended by Section 19, Presidential Decree No. 850).

Article 194. PERMANENT TOTAL DISABILITY. –

- a. Under such regulations as the Commission may approve, any employee under this Title who contracts sickness or sustains an injury resulting in his permanent total disability shall, for each month until his death, be paid by the System during such a disability, an amount equivalent to the monthly income benefit, plus ten percent thereof for each dependent child, but not exceeding five, beginning with the youngest and without substitution: Provided, That the monthly income benefit shall be the new amount of the monthly benefit for all covered pensioners, effective upon approval of this Decree.
- b. The monthly income benefit shall be guaranteed for five years, and shall be suspended if the employee is gainfully employed, or recovers from his permanent total disability, or fails to present himself for examination at least once a year upon notice by the System, except as otherwise provided for in other laws, decrees, orders or Letters of Instructions. (As amended by Section 5, Presidential Decree No. 1641).
- c. The following disabilities shall be deemed total and permanent:

- i. Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;
- ii. Complete loss of sight of both eyes;
- iii. Loss of two limbs at or above the ankle or wrist;
- iv. Permanent complete paralysis of two limbs;
- v. Brain injury resulting in incurable imbecility or insanity; and
- vi. Such cases as determined by the Medical Director of the System and approved by the Commission.

- d. The number of months of paid coverage shall be defined and approximated by a formula to be approved by the Commission.

ART. 195. PERMANENT PARTIAL DISABILITY. –

- (a) Under such regulations as the Commission may approve, any employee under this Title who contracts sickness or sustains an injury resulting in permanent partial disability shall, for each month not exceeding the period designated herein, be paid by the System during such a disability an income benefit for permanent total disability.
- (b) The benefit shall be paid for not more than the period designated in the following schedules:

<i>Complete and permanent loss of the use of</i>	<i>No. of Months</i>
One thumb -	10
One index finger -	8
One middle finger -	6
One ring finger -	5
One little finger -	3
One big toe -	6
One toe -	3
One arm -	50
One hand -	39
One foot -	31
One leg -	46
One ear -	10
Both ears -	20
Hearing of one ear -	10
Hearing of both ears -	50
Sight of one eye -	25

- (c) A loss of a wrist shall be considered as a loss of the hand, and a loss of an elbow shall be considered as a loss of the arm. A loss of an ankle shall be considered as loss of a foot, and a loss of a knee shall be considered as a loss of the leg. A loss of more than one joint shall be considered as a loss of one-half of the whole finger or toe: Provided, That such a loss shall be either the functional loss of the use or physical loss of the member. (As amended by Section 7, Presidential Decree No. 1368).
- (d) In case of permanent partial disability less than the total loss of the member specified in the preceding paragraph, the same monthly income benefit shall be paid for a portion of

- the period established for the total loss of the member in accordance with the proportion that the partial loss bears to the total loss. If the result is a decimal fraction, the same shall be rounded off to the next higher integer.
- (e) In cases of simultaneous loss of more than one member or a part thereof as specified in this Article, the same monthly income benefit shall be paid for a period equivalent to the sum of the periods established for the loss of the member or the part thereof. If the result is a decimal fraction, the same shall be rounded off to the next higher integer.
- (f) In cases of injuries or illnesses resulting in a permanent partial disability not listed in the preceding schedule, the benefit shall be an income benefit equivalent to the percentage of the permanent loss of the capacity to work. (As added by Section 7, Presidential Decree No. 1368).
- (g) Under such regulations as the Commission may approve, the income benefit payable in case of permanent partial disability may be paid in monthly pension or in lump sum if the period covered does not exceed one year. (As added by Section 7, Presidential Decree No. 1368).

CHAPTER VII

DEATH BENEFITS

Article 196. **DEATH BENEFITS.** –

- a. Under such regulations as the Commission may approve, the system shall pay to the primary beneficiaries upon death of the covered employee, under this Title an amount equivalent to his/her monthly income benefit, plus ten percent (10%) thereof for each dependent except as provided for in paragraph (i) of Article 168 hereof: Provided, however that the monthly income benefit shall be guaranteed for ***ten years***: Provided further, that if he/she has no primary beneficiary, the System shall pay to his/her secondary beneficiaries the monthly income benefit but not to exceed one ***hundred twenty (120) days***. Provided, finally that the minimum death benefit shall not be less than ***twenty thousand pesos (P20,000)***. (PM proposal: italics incorporated to Art. 194 (a) of LC)
- b. Under such regulations as the Commission may approve, the System shall pay to the primary beneficiaries upon the death of a covered employee who is under permanent total disability under this Title, eighty percent of the monthly income benefit and his dependents to the dependents' pension: Provided, That the marriage must have been validly subsisting at the time of disability: Provided, further, That if he has no primary beneficiary, the System shall pay to his secondary beneficiaries the monthly pension excluding the dependents' pension, of the remaining balance of the five-year guaranteed period: Provided, finally, That the minimum death benefit shall not be less than fifteen thousand pesos. (As amended by Section 4, Presidential Decree No. 1921).
- c. The monthly income benefit provided herein shall be the new amount of the monthly income benefit for the surviving beneficiaries upon the approval of this decree. (As amended by Section 8, Presidential Decree No. 1368).
- d. Funeral Benefit - ***A funeral benefit of Fifty Thousand Pesos (P50,000) shall be paid upon the death of a covered employee or permanently totally disabled pensioner.*** (PM proposal: italics incorporated to Art. 194 (d) of LC; formerly 3,000 only)

CHAPTER VIII
PROVISIONS COMMON TO INCOME BENEFIT

Article 197. **RELATIONSHIP AND DEPENDENCY.** – All questions of relationship and dependency shall be determined as of the time of death.

Article 198. **DELINQUENT CONTRIBUTIONS.** –

- (a) An employer who is delinquent in his contributions shall be liable to the System for the benefits which may have been paid by the System to his employees or their dependents, and any benefit and expenses to which such employer is liable shall constitute a lien on all his property, real or personal, which is hereby declared to be preferred to any credit, except taxes. The payment by the employer of the lump sum equivalent of such liability shall absolve him from the payment of the delinquent contribution and penalty thereon with respect to the employee concerned.
- (b) Failure or refusal of the employer to pay or remit the contribution herein prescribed shall not prejudice the right of the employee or his dependents to the benefits under this Title. If the sickness, injury, disability or death occurs before the System receives any report of the name of his employee, the employer shall be liable to the System for the lump sum equivalent to the benefits to which such employee or his dependents may be entitled.

Article 199. **SECOND INJURIES.** – If any employee under permanent partial disability suffers another injury which results in a compensable disability greater than the previous injury, the State Insurance Fund shall be liable for the income benefit of the new disability: Provided, That if the new disability is related to the previous disability, the System shall be liable only for the difference in income benefits.

Article 200. **ASSIGNMENT OF BENEFITS.** – No claim for compensation under this Title is transferable or liable to tax, attachment, garnishment, levy or seizure by or under any legal process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the employee to the System.

Article 201. **EARNED BENEFITS.** – Income benefits shall, with respect to any period of disability, be payable in accordance with this Title to an employee who is entitled to receive wages, salaries or allowances for holidays, vacation or sick leaves and any other award of benefit under a collective bargaining or other agreement.

Article 202. **SAFETY DEVICES.** – In case the employee's injury or death was due to the failure of the employer to comply with any law or to install and maintain safety devices or to take other precautions for the prevention of injury, said employer shall pay the State Insurance Fund a penalty of twenty-five percent (25%) of the lump sum equivalent of the income benefit payable by the System to the employee. All employers, especially those who should have been paying a rate of contribution higher than required of them under this Title, are enjoined to undertake and strengthen measures for the occupational health and safety of their employees.

Article 203. **PRESCRIPTION PERIOD.** – No claim for compensation shall be given due course unless said claim is filed with the System within three (3) years from the time the cause of action accrued. (As amended by Section 5, Presidential Decree No. 1921).

Article 204. **ERRONEOUS PAYMENT.** –

- 1
2 (a) If the System in good faith pays income benefit to a dependent who is inferior in right to
3 another dependent or with whom another dependent is entitled to share, such payments shall
4 discharge the System from liability, unless and until such other dependent notifies the
5 System of his claim prior to the payments.
6 (b) In case of doubt as to the respective rights of rival claimants, the System is hereby
7 empowered to determine as to whom payments should be made in accordance with such
8 regulations as the Commission may approve. If the money is payable to a minor or
9 incompetent, payment shall be made by the System to such person or persons as it may
10 consider to be best qualified to take care and dispose of the minor's or incompetent's
11 property for his benefit.
12

13 Article 205. **PROHIBITION.** – No agent, attorney or other person pursuing or in charge of the
14 preparation or filing of any claim for benefit under this Title shall demand or charge for his services
15 any fee, and any stipulation to the contrary shall be null and void. The retention or deduction of any
16 amount from any benefit granted under this Title for the payment of fees for such services is
17 prohibited. Violation of any provision of this Article shall be punished by a fine of not less than five
18 hundred pesos nor more than five thousand pesos, or imprisonment for not less than six months nor
19 more than one year, or both, at the discretion of the court.
20

21 Article 206. **EXEMPTION FROM LEVY, TAX, ETC.** – All laws to the contrary
22 notwithstanding, the State Insurance Fund and all its assets shall be exempt from any tax, fee,
23 charge, levy, or customs or import duty and no law hereafter enacted shall apply to the State
24 Insurance Fund unless it is provided therein that the same is applicable by expressly stating its
25 name.
26

27 **CHAPTER IX**
28 **RECORDS, REPORTS AND PENAL PROVISION**
29

30 Article 207. **RECORD OF DEATH OR DISABILITY.** –
31

- 32 a. All employers shall keep a logbook to record chronologically the sickness, injury or death of
33 their employees, setting forth therein their names, dates and places of the contingency,
34 nature of the contingency and absences. Entries in the logbook shall be made within five
35 days from notice or knowledge of the occurrence of the contingency. Within five days after
36 entry in the logbook, the employer shall report to the System only those contingencies he
37 deems to be work-connected.
38
39 b. All entries in the employer's logbook shall be made by the employer or any of his
40 authorized official after verification of the contingencies or the employees' absences for a
41 period of a day or more. Upon request by the System, the employer shall furnish the
42 necessary certificate regarding information about any contingency appearing in the logbook,
43 citing the entry number, page number and date. Such logbook shall be made available for
44 inspection to the duly authorized representative of the System.
45
46 c. Should any employer fail to record in the logbook an actual sickness, injury or death of any
47 of his employees within the period prescribed herein, give false information or withhold
48 material information already in his possession, he shall be held liable for fifty percent of the
49 lump sum equivalent of the income benefit to which the employee may be found to be
50 entitled, the payment of which shall accrue to the State Insurance Fund.

- d. In case of payment of benefits for any claim which is later determined to be fraudulent and the employer is found to be a party to the fraud, such employer shall reimburse the System the full amount of the compensation paid.

Article 208. **NOTICE OF SICKNESS, INJURY OR DEATH.** – Notice of sickness, injury or death shall be given to the employer by the employee or by his/her dependents or any body on his/her behalf *fifteen 15 days* from the occurrence of the contingency. No notice to the employer is required if the contingency is known to the employer or his/her agents or representatives. (PM proposal: italics incorporated to Art. 206 of LC)

Article 209. **PENAL PROVISIONS.** –

- (a) The penal provisions of Republic Act Numbered Eleven Hundred Sixty-One, as amended, and Commonwealth Act Numbered One Hundred Eighty-Six, as amended, with regard to the funds as are thereunder being paid to, collected or disbursed by the System, shall be applicable to the collection, administration and disbursement of the Funds under this Title. The penal provisions on coverage shall also be applicable.
- (b) Any person who, for the purpose of securing entitlement to any benefit or payment under this Title, or the issuance of any certificate or document for any purpose connected with this Title, whether for him or for some other person, commits fraud, collusion, falsification, misrepresentation of facts or any other kind of anomaly, shall be punished with a fine of not less than five hundred pesos nor more than five thousand pesos and an imprisonment for not less than six months nor more than one year, at the discretion of the court.
- (c) If the act penalized by this Article is committed by any person who has been or is employed by the Commission or System, or a recidivist, the imprisonment shall not be less than one year; if committed by a lawyer, physician or other professional, he shall, in addition to the penalty prescribed herein, be disqualified from the practice of his profession; and if committed by any official, employee or personnel of the Commission, System or any government agency, he shall, in addition to the penalty prescribed herein, be dismissed with prejudice to re-employment in the government service.

Article 210. **APPLICABILITY.** – This Title shall apply only to injury, sickness, disability or death occurring on or after January 1, 1975.

Article 211. **REPEAL.** - All existing laws, Presidential Decrees and Letters of Instructions which are inconsistent with or contrary to this Decree, are hereby repealed: Provided, That in the case of the GSIS, conditions for entitlement to benefits shall be governed by the Labor Code, as amended: Provided, however, That the formulas for computation of benefits, as well as the contribution base, shall be those provided under Commonwealth Act Numbered One Hundred Eighty-Six, as amended by Presidential Decree No. 1146, plus twenty percent thereof. (As added by Section 9, Presidential Decree No. 1368 [May 1, 1978] and subsequently amended by Section 7, Presidential Decree No. 1641). delete

TITLE VII

PHILIPPINE MEDICAL HEALTH PLAN

Article 212. **MEDICAL CARE PLAN.** – The Philippine Medical Care Plan shall be implemented as provided under Republic Act Numbered Sixty-One Hundred Eleven otherwise known as PHILIPPINE HEALTH INSURANCE CORPORATION, as amended.

1 TITLE VIII
2 WORKING CONDITIONS

3
4 CHAPTER I
5 PRELIMINARY MATTERS
6

7 Article 213. **DEFINITION** – as used in this title:

- 8
9 (a) **“Person”** means an individual, partnership, association, corporation, business trust, legal
10 representative or any organized group of persons.
11
12 (b) **“Employer”** includes any person acting directly or indirectly in the interest of an
13 employer in relation to an employee and shall include the Government and all its
14 branches, subdivisions and instrumentalities, all Government-owned or controlled
15 corporations and institutions, as well as non-profit private institutions or organizations.
16
17 (c) **“Employee”** includes any individual employed by an employer.
18
19 (d) **“Agriculture”** includes farming in all its branches, and among other things, includes the
20 cultivation and tillage of soil, dairying, the production, cultivation, growing and
21 harvesting of any agricultural and horticultural commodities, the raising of livestock or
22 poultry, and any practices performed by a farmer on a farmer as an incident to or in
23 conjunction with such farming operations, but does not include the manufacturing or
24 processing of sugar coconut, abaca, tobacco, pineapples or other farm products.
25
26 (e) **“Employ”** includes to suffer or permit to work.
27
28 (f) **“Wage”** paid to any employee shall mean the remuneration or earnings, however
29 designated, capable of being expressed in terms of money, whether fixed or ascertained
30 on a time, task, piece, or commission basis, or other method of calculating the same,
31 which is payable by an employer to an employee under a written or unwritten contract or
32 employment for work done or to be done or for services rendered or to be rendered and
33 includes the fair and reasonable value, as determined by the Secretary of labor and
34 Employment, of board lodging or other facilities customarily furnished by the employer
35 to the employee. **“Fair and reasonable value”** shall not include any profit to the employer
36 or to any person affiliated with the employer.
37

38 CHAPTER II
39 CLASSIFICATION OF EMPLOYMENT
40

41 Article 214. **REGULAR EMPLOYMENT.** – *The provisions of written agreements to the*
42 *contrary notwithstanding and regardless of the oral arrangement of the parties, any employment*
43 *shall be deemed to be regular from the commencement of the employment where the employee*
44 *has been engaged to perform activities which are related to or usually necessary or desirable in*
45 *the usual business or trade of the employer.* (PM proposal: formerly Art. 280 of LC)
46

47 Article 215. **PROHIBITION.** – *It shall be prohibited for any employer, which shall include*
48 *manager, president, vice-president, director or any responsible officers to employ an employee*
49 *based on contract fixing the period of employment or repeated fixing of contract of employment.*
50 (PM proposal)

1
2 **Article 216. PENAL PROVISION.** – Any violation of the preceding Article shall be deemed
3 **unlawful, and the employer shall be punished by imprisonment of not less than two (2) years nor**
4 **more than four (4) years, or fine of not less than fifty thousand pesos (P50,000) nor more than**
5 **one hundred thousand pesos (P100,000), or both such fine and imprisonment at the discretion of**
6 **the Labor Court. (PM proposal)**
7

8 **Article 217. PROBATIONARY EMPLOYMENT.** – Probationary employment shall not exceed
9 **three (3) months from the date the employee started working and shall only be allowed in highly**
10 **technical and specialized positions; provided, however that no probationary employment shall be**
11 **required of an employee who is certified by the Technical Education and Skills Development**
12 **Authority, if said employee shall be occupying a position for which he/she is certified to have**
13 **completed the corresponding training therefore.**
14

- 15 **a. The services of an employee who has been engaged on a probationary basis may be**
16 **terminated only for a just cause or when he/she fails to qualify as a regular employee in**
17 **accordance with reasonable standards made known by the employer to the employee at the**
18 **time of his/her engagement.**
19
20 **b. An employee who is allowed to work after a probationary period shall be considered a**
21 **regular employee. (PM proposal: formerly Art. 280)**
22

23 **Article 218. CONTRACTUAL EMPLOYMENT.** – Contractual employment is any employment
24 **based on contract or based on contract fixing the period of employment. However, repeated**
25 **fixing of contract of employment, which shall circumvent the right to security of tenure of an**
26 **employee shall be deemed regular employee if he/she is made to perform an activity which are**
27 **desirable and necessary in the usual trade of business or if he/she is permitted to work beyond**
28 **one (1) year, notwithstanding any written or verbal contract to the contrary. (PM proposal)**
29

30 **Article 219. JOB CONTRACTING OR SUBCONTRACTING.** –
31

- 32 **a) The services of the job contractor or subcontractor is engaged only to meet an abnormal**
33 **increase in demand for the products or services of the principal employer, which the**
34 **latter's regular workforce cannot meet and such fact has been certified to by the exclusive**
35 **bargaining agent or worker's representative. Provided, that the job contractor or**
36 **subcontractor manifests the following conditions:**
37
38 **i. The job contractor or subcontractor has substantial capital and investment**
39 **in the form of tools, equipment, machines, work premises among others;**
40 **ii. The job contractor or subcontractor is engaged in an independent business**
41 **and has control and supervision of the employees placed or recruited**
42 **regaining the manner by which the work is to be performed.**
43 **iii. The job contractor or subcontractor is duly registered with the Department**
44 **of Labor and Employment.**
45
46 **b) An employee placed or recruited by a job contractor or subcontractor shall be considered**
47 **a regular employee of the latter:**
48
49 **i. After three (3) months following the date when such employee was placed**
50 **or recruited; or**

1 ii. *When the job contractor or subcontractor regularly places or recruits*
2 *employees to perform the same or similar task or activity.*

3
4 c) *The job contractor or subcontractor shall be solidarily liable with the principal employer*
5 *for all benefits due the employees placed or recruited by the former.* (PM proposal: HB
6 6513)
7

8 Article 220. **PROHIBITED LABOR-ONLY CONTRACTING.** –
9

10 a) *Contracting or subcontracting out of work, where the work to be contracted or*
11 *subcontracted is related to or usually necessary or desirable in the usual business or trade*
12 *of the principal employer is hereby prohibited.*
13

14 b) *There is prohibited labor-only contracting:*

- 15 i. *Where the person, whether natural or juridical, supplying employee to a*
16 *principal employer does not have substantial capital or investment in the*
17 *form of tools, equipment, machineries, work premises, among others; or*
18 ii. *Where the employees placed or recruited by such person are performing*
19 *activities which are related to or usually necessary or desirable in the usual*
20 *business or trade of the principal employer; or*
21 iii. *Where the employee placed or recruited are under the control or*
22 *supervision of the principal employer; or*
23 iv. *Where the period of such placement or recruitment exceeds three (3)*
24 *months; or*
25 v. *Where there is regularity in the performance of the task or activity to which*
26 *the employees have been placed;*
27 vi. *Where there is contracting out of a job, work or services when not justified*
28 *by exigencies of the business and the same result in the termination of*
29 *regular employees and reduction of work hours or reduction or splitting of*
30 *the bargaining unit;*
31 vii. *Where there is contracting out of work with a “cabo”. The term “cabo”*
32 *refers to a person or group of persons or to a labor organization, supplies*
33 *workers to an employer, with or without any monetary or other*
34 *consideration whether in the capacity of an agent of the employer or as an*
35 *ostensible independent contractor;*
36 viii. *Where there is contracting out of a job, work or service through an in-*
37 *house agency which refers to a contractor or subcontractor engaged in the*
38 *supply of labor which is owned, managed or controlled by the principal and*
39 *which operates solely for the principal;*
40 ix. *Where there is contracting out of a job, work or service directly related to*
41 *the business or operation of the principal by reason of a strike or lockout*
42 *whether actual or imminent;*
43 x. *Where there is contracting out of a job, work or service being performed by*
44 *union members when such will interfere with, restraints or coerce*
45 *employees in the exercise of their rights to self-organization as provided in*
46 *Article 295 of this code;*
47 xi. *Where there is taking of undue advantage of the economic situation or lack*
48 *of bargaining strength of the employees, or undermining his/her security of*
49

tenure or basic rights, or circumventing the provisions of regular employment, in any of the following instances:

1. In addition to his/her assigned functions, requiring the employee to perform functions which are currently being performed by the regular employees of the principal or of the contractor or subcontractor;
2. Requiring him/her to sign as a precondition to employment or continued employment, an antedated resignation letter; a blank payroll; waiver of labor standards including minimum wages and social welfare benefits; or a quit claim releasing the principal, contractor or subcontractor from any liability as to payment of future claims; and
3. Requiring him/her to sign a contract fixing the period of employment or repeated fixing of contract of employment to avoid the employee from attaining a regular status of employment.

c) In said cases, such person or intermediary shall be considered merely as an agent of the principal employer who shall be responsible to the employees in the same manner and extent as if the latter were directly employed by him/her. In case the assets of the principal employer are not sufficient to cover the benefits due the employees placed or recruited by the labor-only contractor, the latter shall subsidiarily be liable for the balance thereof.

d) There is a prima facie presumption of violation this act when a contracting or subcontracting agreement is limited to a period of three (3) months and is subsequently renewed and the task of activity performed by the employee who is placed or recruited is related to or usually necessary or desirable in the usual business or trade of the principal employer.

The same presumption shall arise where the employees perform a task or activity without which the usual business or trade of the principal employer will not be complete.

e) In determining whether the task or activity performed by employees who are placed or recruited is related to or usually necessary or desirable in the usual business or trade of the principal employer, the entirety of the activities performed by the latter and their relations to the other departments or divisions in his/her business or trade shall be the major criterion. (PM proposal: formerly Art. 106)

Article 221. PENAL PROVISION. – Any person violating the preceding provisions shall be punished by imprisonment of not less than two (2) years not more than four (4) years, or fine of not less than fifty thousand pesos (P50, 000) not more than one hundred thousand pesos (P100, 000), or both such imprisonment or fine at the discretion of the labor court. In addition, the license or authority to operate if any of such employer shall also be revoked in an appropriate proceeding.

In case of corporation or other such judicial entities, the person or persons managing the same shall be personally liable. (PM proposal: HB 6513)

Article 222. INDIRECT EMPLOYER. – A person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of

1 *any work, task, job, or project, is jointly and solidarily liable with the independent contractor for*
2 *any violation of any provision of this Code by the latter.*

3
4 *Nothing in this Article indicates that insolvency or unwillingness to pay by the contractor*
5 *or direct employer is a prerequisite for the joint and several liability of the principal or indirect*
6 *employer. (PM proposal HB 6513: formerly Art. 107)*
7

8 Article 223. **POSTING OF BOND.** - *An employer or indirect employer may require the*
9 *contractor or sub-contractor to furnish a bond equal to the cost of labor under contract, on*
10 *condition that the bond will answer for the wages due the employees should the contractor or*
11 *sub-contractor, as the case may be, fail to pay the same. (PM proposal HB 6513: formerly Art.*
12 *108)*
13

14 Article 224. **SOLIDARY LIABILITY.** - *The provisions of existing laws to the contrary*
15 *notwithstanding, every principal employer or indirect employer shall be held responsible with his*
16 *contractor or sub-contractor for any violation of any provision of this Code.*
17

18 *For purposes of determining the extent of their civil liability under this chapter, they shall*
19 *be considered as direct employers. (PM proposal HB 6513: formerly Art. 109)*
20

21 **CHAPTER III** 22 **CLASSIFICATION OF EMPLOYEES** 23

24 Article 225. **REGULAR EMPLOYEES.** - *A regular employee is a person engaged to perform*
25 *regular employment as defined in Article 214 Code.*
26

27 Article 226. **PROBATIONARY EMPLOYEES.** - *A probationary employee is a person engaged*
28 *to perform probationary employment as defined in Article 217 of this Code.*
29

30 Article 227. **CONTRACTUAL EMPLOYEES.** - *A contractual employee is a person engaged to*
31 *perform contractual employment as defined in Article 218 of this Code.*
32

33 **CHAPTER IV** 34 **HOURS OF WORK** 35

36 Article 228. **COVERAGE.** - *The provisions of this title shall apply to employees in all*
37 *establishments and undertakings whether for profit or not, except to government employees,*
38 *managerial employees and members of the family of the employer who are dependent on him for*
39 *support. The terms and conditions of all State workers shall be governed by Republic Act ____ or*
40 *the Civil Service Law. (PM proposal: italics incorporated to Art. 82 of LC)*
41

42 *As used herein, “managerial employees” refer to those whose primary duty consists of the*
43 *management of the establishment in which they are employed or of a department or subdivision*
44 *thereof, and to other officers or members of the managerial staff with the authority or power to hire*
45 *and fire employees. (PM proposal: deleted 3rd par of Art. 82 of the LC)*
46

47 Article 229. **NORMAL HOURS OF WORK.** - *The normal hours of work of any employee shall*
48 *not exceed eight (8) hours a day.*
49

1 Health personnel in cities and municipalities with a population of at least one million
2 (1,000,000) or in hospitals and clinics with a bed capacity of at least one hundred (100) shall hold
3 regular office hours for eight (8) hours a day or forty hours, for five (5) days week, exclusive of
4 time for meals except where the exigencies of the service require that such personnel work for six
5 (6) days or forty-eight (48) hours, in which case they shall be entitled to an additional compensation
6 of at least thirty percent (30%) of their regular wage work on the sixth day. For purposes of this
7 article, "health personnel" shall include resident physicians, nurses, nutritionists, dieticians,
8 pharmacists, social workers, laboratory technicians, paramedical technicians, psychologists,
9 midwives, attendants and all other hospital and clinic personnel.

10
11 **Article 230. FLEXIBLE WORKING HOURS FOR SOLO PARENTS.** –*The employer shall*
12 *provide for a flexible working schedule for solo parents: Provided, That the same shall not affect*
13 *individual and company productivity: Provided, further, That any employer may request*
14 *exemption from the above requirements from the DOLE on certain meritorious grounds.* (Based
15 on R.A 8972 "Solo Parent Law")

16
17 **Article 231. HOURS WORKED.** – Hours worked shall include (a) all the time during which an
18 employee is required to be on duty or to be at a prescribed work place, and (b) all time during,
19 which an employee is suffered or permitted to work.

20
21 *All employees shall be entitled to thirty (30) minutes rest period to be distributed for*
22 *fifteen (15) minutes for every four (4) hours of work.*

23
24 *Rest periods during working hours shall be counted as hours worked.* (PM proposal:
25 italics incorporated to Art. 84 of LC)

26
27 **Article 232. MEAL PERIODS.** – *All employees shall be entitled to sixty (60) minutes for their*
28 *regular meals and the same shall be deemed compensable hours.* (PM proposal: italics
29 incorporated to Art. 85 of LC)

30
31 **Article 233. OVERTIME PAY.** – All employees made to suffer or permitted to work beyond eight
32 (8) hours in one day shall be entitled to an overtime pay of **thirty percent (30%)** or **forty percent**
33 **(40%)** of his/her regular rate for time worked in excess of eight hours in any regular working day or
34 work during special or legal holidays, respectively. (PM proposal: italics incorporated to Art. 87 of
35 LC "formerly 25/30")

36
37 **Article 234. EMERGENCY OVERTIME.** – Any employee may be required by the employer to
38 perform overtime work in any of the following cases:

- 39
40 a.) When country is at war or when any other national or local emergency has been declared
41 by congress or the chief executive;
42 b.) When it is necessary to prevent loss of life or property or in case of imminent danger to
43 public safety due to an actual or impending emergency in the locality caused by serious
44 accidents, fire, flood, typhoon, earthquake, epidemic or other disaster or calamity.
45 c.) When there is urgent work to be performed on machines, installations, or equipment, in
46 order to avoid serious damage to the employer or some other cause of similar nature.
47 d.) When the work is necessary to prevent loss or damage to perishable goods;
48 e.) Where the completion or continuation of the work started before the eight hour is
49 necessary to prevent serious obstruction or prejudice to the business of the employer.
50

Any employee required to render overtime work under this article shall be paid additional compensation required in this chapter: ***Provided, That any employee may refuse overtime work on justifiable and/or personal reasons.*** (PM proposal: italics incorporated to Art. 89 of LC)

Article 235. **OFFSETTING OF TIME WORKED PROHIBITED.** – ***Overtime work on any particular day shall not be used to offset under time work on any other day.***

Authorized leave of absence by any employee shall not be used to exempt the employer from paying the additional compensation required in this chapter. (PM proposal: formerly Art. 88 of LC)

Article 236. **NIGHT SHIFT DIFFERENTIAL.** – Every employee shall be paid a night differential of not less than ***thirty percent (30%)*** of his regular wage for each hour of work performed between ***six o'clock in the evening and six o'clock in the morning.*** (PM proposal: italics incorporated to Art. 86 of LC “old 10% and from 10 to 6pm”)

Article 237. **COMPUTATION OF ADDITIONAL COMPENSATION.** – For purposes of computing overtime and other additional remuneration as required by this chapter, the regular wage of an employee ***shall include ECOLA in the determination of cash wage,*** without deduction on account of facilities provided by the employer. (PM proposal: italics incorporated to Art. 90 of LC)

Article 238. **PENAL PROVISION.** – ***Employer, which shall include managers, presidents, vice-presidents, directors, and other responsible officers shall suffer a penalty of two (2) to four (4) years imprisonment and/or fine of not less than fifty thousands pesos (P50, 000) not more than one hundred thousand pesos (P100, 000) or both such fine and imprisonment at the discretion of the labor court for non payment or underpayment of overtime, night shift differential and other additional remuneration as required by this chapter.***

The penalty of imprisonment and/or fine or both shall not preclude the employer from paying double the amount of the monetary claim of the employee for his/her overtime, night shift differential and other additional remuneration under this chapter. (PM proposal) double indemnity

CHAPTER V **WEEKLY REST PERIODS**

Article 239. **RIGHT TO WEEKLY REST DAY.** –

- a. It shall be the duty of every employer, whether operating for profit or not, to provide each of his employee a rest period of not less than twenty four (24) hours consecutive hours after every six (6) consecutive normal work days.
- b. The employer shall determine and schedule the weekly rest day of his employees subject to collective agreement and to such rules and regulations as the secretary of labor and Employment may provide. However, the employer shall respect the preference of the employees as to their weekly rest day when that preference is based on religious grounds.

Article 240. **WHEN EMPLOYER MAY REQUIRE WORK ON A REST DAY.** – The employer may require his employee to work on any days:

- (a) In case of actual or impending emergencies caused by serious accidents, fire, flood, typhoon, earthquake, epidemic or other disaster or calamity to prevent loss of life and property, or imminent danger to public safety.
- (b) In cases of urgent work to be performed on machines, installations, or equipment, in order to avoid serious loss or damage which the employer would otherwise suffer.
- (c) In the event of abnormal pressure or work due to special circumstances where the employer can not ordinarily be expected to other measures;
- (d) To prevent loss or damage to perishable goods;
- (e) Where the nature of the work requires continuous operations and stoppage of work may result in irreparable injury or loss to the employer

Any employee required to work on his/her scheduled rest day under this article shall be paid for additional compensation required under this chapter: Provided that, any employee may refuse to work on his/her scheduled rest day on justifiable and/or personal reasons. (PM proposal: italics incorporated to Art. 92 of LC)

Article 241. **COMPENSATION FOR REST DAY, SUNDAY AND HOLIDAY WORK.** –

- a. Where an employee is made or permitted to work on his scheduled rest day, he shall be paid an additional compensation of at least **forty percent (40%)** of his regular wage, an employee shall be entitled to such additional compensation for work performed on Sundays only when it is his established rest day. (PM proposal)
- b. When the nature of the work of an employee is such that he has no regular work days, no regular rest days can be scheduled, he shall be paid an additional compensation of at least **forty percent (40%)** of his regular wage for work performed on Sundays and holidays;
- c. Work performed on any special holiday shall be paid an additional compensation of at least **forty percent (40%)** of the regular wage of the employee. Where such holidays falls on an employee's scheduled rest day he shall be entitled to an additional compensation of at least **sixty percent (60%)** of his regular wage. (PM proposal)
- d. *Work performed on any regular holiday shall be paid compensation equivalent to twice his/her regular rate. Where such holidays falls on an employee's scheduled rest day he/she shall be entitled to an additional compensation of at least forty percent (40%) of his/her regular wage.* (PM proposal)
- e. Where the collective bargaining employment or other applicable employment contract stipulates a higher premium pay than that prescribed under this article, the employer shall pay such higher rate.

For purposes of computing the compensation for rest day, Sunday or holiday work, employee shall include ECOLA in the determination of cash wage, without any deductions on account of any facilities provided by the employer. (PM proposal: italics incorporated to Art. 93 of LC)

Article 242. **PENAL PROVISIONS.** – Employer, which shall include managers, presidents, vice-presidents, directors, and other responsible officers shall suffer a penalty of two (2) to four (4) years imprisonment and/or fine of not less than fifty thousands pesos (P50, 000) not more than one hundred thousand pesos (P100, 000) or both such fine and imprisonment at the discretion of the labor court for non payment or underpayment of the compensation for rest day, Sunday or holiday work under this chapter.

The penalty of imprisonment and/or fine or both shall not preclude the employer from paying double the amount of the monetary claim of the employee for his/her compensation for rest day, Sunday or holiday worked. (PM proposal)

CHAPTER VI

HOLIDAYS, LEAVE BENEFITS AND SERVICE CHARGES

Article 243. **RIGHT TO HOLIDAY PAY.** –

- a. Every worker shall be paid his/her regular wage during regular holidays.
- b. The employers may require an employee to work on any holiday but such employee shall be paid compensation equivalent to twice his/her regular rate;
- c. As used in this article “holidays” include, New Years Day, Maundy Thursday, Good Friday, the ninth of April, the first of May, the twelfth of June, last Sunday of August, the thirtieth of November, the twenty-fifth of December, 30th of December, ***including but not limited to the 8th of March, the first of November, the Ramadan and the last day of the year*** and the day designated by law for holding a general election; (PM proposal)
- d. ***All private corporations, offices, agencies and entities of establishments operating within the provinces of Basilan, Lanao del Norte, Lanao del Sur, Maguindanao, North Cotabato, Sulatan Kudarat, Sulu, Tawi-tawi, Zamboanga del Sur and in the cities of Cotabato, Iligan, Marawi, Pagadian, and Zamboanga and in such other Muslim provinces and cities as may be created, shall observe the Muslim holidays; Provided that all Muslim employee working outside of the Muslim Provinces and cities enumerated herein shall be excused from work during the observance of the Muslim holidays without diminution or loss of salary or wages during the said period.***

Considering that all private corporations, offices and entities or establishments operating within the Muslim provinces and cities enumerated in this article are required to observe Muslim holidays, both Muslim and Christians working within the Muslim area may not report for work on the days designated by law as Muslim holidays: Provided, that Muslim employees working outside of the Muslim provinces and cities shall be excused from reporting for work during the observance of the Muslim holiday without diminution of salary and wages during the period.

As used in this article, “Muslim holidays” includes: Amun Jadid (New Year); Maulid-un-Nabi (Birthday of the Prophet Muhammad); Lailatul Isra Wal Mi Rai (Nocturnal Journey and Ascension of the Prophet Muhammad); Id-ul-Fitr (Hari Raha Haji); Id-ul-Adha (Hari Raja Haji). (Based on PD 1083 and No.II[c] DOLE Handbook on Workers Statutory Monetary Benefits: italics incorporated to Art. 94 of LC)

Article 244. **RIGHT TO VACATION AND SICK LEAVES.** –

- (a) Every employee who has rendered at least one (1) year of service *shall be entitled to yearly vacation leave of ten (10) days and sick leave of ten (10) days.* (PM proposal)
- (b) This provision shall not apply to those who are already enjoying the benefit herein provided.
- (c) The grant of benefit in excess of that provided herein shall not be made a subject of arbitration on any court or administrative action.

Should sick leave be not used or exhausted by the end of the year the same shall be remunerated into its money equivalent. (Based on No. VI[c] DOLE Handbook on Workers Statutory Monetary Benefits: italics incorporated to Art. 95 of LC)

Article 245. PATERNITY LEAVE. – *Every employer shall grant paternity leave with full pay to all male employees based on his daily salary credit of not less than five (5) days prior to the expected date of delivery and another ten (10) days after the delivery of his spouse regardless whether the child is born out of wedlock or not, provided there be cohabitation. For miscarriages, male employees are entitled to only ten (10) days paternity leave without need of prior application of leave.* (PM proposal)

Article 246. SOLO PARENT LEAVE. – *In addition to leave privileges under the existing laws, parental leave of not more than seven (7) days every year with pay shall be granted to any solo parent employee who rendered service for at least one (1) year.* (Based on R.A 8972 “Solo Parent Law”)

Article 247. SERVICE CHARGES. – All service charges collected by hotels, restaurants and similar establishments shall be distributed at the rate of eighty-five percent (85%) for all covered employees and fifteen percent (15%) for management. The share of employees shall be equally distributed among them. In case the service charge is abolished, the share of the covered employee shall be considered integrated in their wages.

For purposes of equal distribution of service charges based on the above-mentioned percentage, all covered employees shall be entitled to a duplicate copy of the receipts and invoice of the everyday transactions of the management to ensure transparency in the computation of the benefit under this article. (PM proposal: italics incorporated to Art. 96 of LC)

Article 248. PENAL PROVISIONS. – *Employer, which shall include managers, presidents, vice-presidents, directors, and other responsible officers shall suffer a penalty of two (2) to four (4) years imprisonment and/or fine of not less than fifty thousands pesos (P50, 000) not more than one hundred thousand pesos (P100, 000) or both such fine and imprisonment at the discretion of the labor court for non payment of or underpayment of holiday pay, vacation leave pay, sick leave pay and percentage share on service charge required by this chapter.*

The penalty of imprisonment and/or fine or both shall not preclude the employer from paying double the amount of the monetary claim of the employee for his/her holiday pay, vacation leave pay, sick leave pay and percentage share on service charge required by this chapter. (PM proposal)

CHAPTER VII
WAGES

Article 249. STATEMENT OF POLICY. – *It is hereby declared the policy of the State to ensure the constitutional rights of workers to a living wage and to their just share in the fruits of production in order to afford them ad their families a decent standard of living; to enhance the country’s global competitiveness through strongly motivated and highly productive working force; and to strengthen the partnership between the government and the private sector in uplifting labor toward national development.*

The State shall guarantee the right of labor to self-organization so as to promote collective bargaining and negotiations as the primary mode of settling living wages above what is mandated by law and other humane terms and conditions of employment. (Based on HB: 2370 “Barinaga” and 1377 “Luistro”)

Article 250. DEFINITION OF TERMS. –

- a. Cost of living refers to the economic value of day-to-day subsistence.
- b. Living wage constitutes the regular minimum income of a worker that is necessary and adequate for him/her and his/her family to live and survive a decent living standard.
- c. Standard of living consists of the consumption of a basket of goods and services to provide nutritional, shelter, health and educational requirements for the survival of the family. It is the equivalent to the living wage that would represent the minimum budget needed by the worker household as necessary for a decent daily life.

Article 251. PROVISION OF A FAMILY LIVING WAGE. – *The State shall institutionalize a mechanism to implement a fairer, more acceptable and constitutionally guaranteed wage system based on the current family living standard of employees in the public and private sectors.* (Based on HB: 2370 “Barinaga” and 1377 “Luistro”)

Article 252. DETERMINING FAMILY SIZE. – *Employees in the public and private sectors shall be entitled to receive a family living wage equivalent to the daily cost of living of an average Filipino family which average size shall be determined by the National Statistics Office (NSO) and the Population Commission (POPCOM) as it may be deemed necessary.* (Based on HB: 2370 “Barinaga” and 1377 “Luistro”)

Article 253. FAMILY LIVING WAGE CLASSIFICATION STANDARD. – *The family living wage shall be determined by the National Economic Development Authority (NEDA) and the Department of Finance (DOF). To determine the applicable family living wage, the classification standard of cities and/or municipalities shall be used.* (COCLE)

Article 254. SOLE CRITERION IN LIVING WAGE DETERMINATION. – *In line with the declared policy under this Act, full-time employees in the public and private agricultural and non-agricultural sectors shall receive a living wage equivalent to the cost of living for a family of six based on the following minimum standards of living:*

- a. *Balanced diet*
- b. *Decent clothing*
- c. *Decent shelter*

- d. *Hygiene and sanitation*
- e. *Health and medical care*
- f. *Basic education*
- g. *Basic durables, i.e. radio, tv, electric fan*
- h. *Basic services, i.e. power, water, transport*
- i. *Leisure and recreation*
- j. *Observance of vital personal and social events*

Provided, That the quality and/or quantity of the foregoing items shall be regularly considered relative to the country's current level of development; and Provided, further, That for purposes of this chapter and until otherwise determined and/or adjusted by the Living Wage Commission in accordance with the provisions hereof, the statutory living wage shall be Six Hundred Pesos (P600.00) per day. (COCLE)

Article 255. PRICE REGULATION AND TAX RELIEF. – *In case of failure of employers to grant the full amount of the living wage, the State shall without delay carry out price regulation and discount measures, subsidy and tax reform including, but not limited to, exemption of workers receiving wages less than the cost of living from the payment of withholding and value-added taxes and the employees' counterpart of the Government Service Insurance System (GSIS) or Social Security System (SSS), PhilHealth and PAG-IBIG contributions. (COCLE)*

Article 256. NATIONAL LIVING WAGE COMMISSION. – *There is hereby created a National Living Wage Commission, hereinafter referred to as the Commission, which shall be attached to the Department of Labor and Employment (DOLE) for policy and program coordination. (COCLE)*

Article 257. POWERS AND FUNCTIONS OF THE COMMISSION. – *The Commission shall have the following powers and functions:*

- a. *To act as a permanent machinery to determine and protect the statutory living wage and provide for its timely adjustments;*
- b. *To formulate policies and guidelines on living wages, incomes and productivity, improvement at the enterprise, industry and national levels;*
- c. *To undertake studies, researches, and surveys necessary for the attainment of its functions and objectives, and to collect and compile data and periodically disseminate information on living wages and productivity and other related information, including, but not limited to, employment, cost of living, labor costs, investments and returns;*
- d. *To call, from time to time, a national tripartite conference of representatives of government, workers and employers for the consideration of measures relative to living adjustments; and*
- e. *To act as the national consultative and advisory body to the President of the Philippines and Congress on matters relating to the living wages, income and productivity;*
- f. *To exercise such powers and functions as may be necessary to implement this provision. (COCLE)*

Article 258. COMPOSITION OF THE COMMISSION. – *The Commission shall be composed of the Secretary of Labor and Employment as ex-officio Chairperson, the Director-General of the*

1 *National Economic Development Authority (NEDA) as ex-officio Vice-Chairperson, and three*
2 *(3) members from the workers and two (2) from the employers sectors who shall be appointed by*
3 *the President of the Philippines upon recommendation of the Secretary of Labor and*
4 *Employment from among the nominees submitted by the workers and employers sectors,*
5 *respectively, and who shall serve for a term of five (5) years. The Executive Director of the*
6 *Commission Secretariat shall also be a member of the Commission.*

7
8 *The Commission shall be assisted by a Secretariat to be headed by an Executive Director*
9 *and two (2) Deputy Directors, who shall be appointed by the President of the Philippines, upon*
10 *recommendation of the Secretary of Labor and Employment.*

11
12 *The Executive Director shall have the same rank, salary, benefits and other emoluments*
13 *as that of a Department Assistant Secretary, while the Deputy Directors shall have the same rank,*
14 *salary, benefits and other emoluments as that of a Bureau Director. The members of the*
15 *Commission representing Labor and Management shall have the same rank, emoluments,*
16 *allowances and other benefits as those prescribed by law for labor and management*
17 *representatives in the Employees' Compensation Commission. (COCLE)*

18
19
20 *Article 259. PENALTIES. – Any person who refuses or fails to pay the mandated living wage*
21 *adjustments as provided for in this Act shall be penalized by a fine of not less than Fifty*
22 *Thousand Pesos (P50,000.00) but not more than Two Hundred Thousand Pesos (P200,000.00)*
23 *and/or imprisonment of not less than six (6) months but not more than one (1) year; Provided,*
24 *That any person convicted under this chapter shall not be entitled to the benefits provided for*
25 *under the Probation Law.*

26
27 *If the violation is committed by a corporation, trust, firm, partnership, association or any*
28 *other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers*
29 *including, but not limited to, the president, vice-president, chief executive officer, general*
30 *manager, managing director or partner. If the offender is an alien, he shall, after service of*
31 *sentence, be deported immediately without further proceeding in the Bureau of Immigration (BI),*
32 *and shall be banned permanently from reentering the country. If the offender is a public officer*
33 *or employee, the Court shall, in addition to the penalties hereinabove provided, order his/her*
34 *dismissal from government service. (COCLE)*

35
36
37 **CHAPTER VIII**
38 **PAYMENT OF WAGES**
39

40 *Article 260. PAYMENT OF WAGES. – No employer shall pay the wages of an employee by*
41 *means of promissory notes, vouchers, coupons, tokens, tickets or any object other than legal tender,*
42 *even when expressly requested by the employee.*

43
44 *Payment of wages by check or money order shall be allowed when such manner of payment*
45 *is customary on the date of effectivity of their Code, or is necessary because of special*
46 *circumstances as specified in appropriate regulation to be issued by the secretary of labor or as*
47 *stipulated in a collective bargaining agreement.*

48
49 *Employer, which shall include managers, presidents, vice-presidents, directors, and other*
50 *responsible officers, shall suffer a penalty of four (4) years to six (6) years imprisonment*

1 *minimum wage prescribed by law. The penalty of imprisonment shall not preclude the employer*
2 *from paying double the amount of the monetary claim of the employee based on his/her unpaid*
3 *or underpaid wages.* (PM proposal: italics incorporated to Art. 102 of LC)
4

5 Article 261. **TIME OF PAYMENT.** – Wages shall be paid at least once every two (2) weeks or
6 twice a month at intervals not exceeding sixteen (16) days. If on account of force majeure or
7 circumstances beyond the employer's control, payment on or within the time herein provided
8 cannot be made, the employer shall pay immediately after such force majeure or circumstances have
9 ceased. No employer shall make payment with less frequency than once a month.

10
11 The payment of wages of employee engaged to perform a task, which cannot be completed
12 in two (2) weeks, shall be subject to the following conditions in the absence of a collective
13 bargaining agreement or arbitration award;
14

- 15 a. That payments are made at intervals not exceeding sixteen (16) days in proportion to the
16 amount of work completed;
17
18 b. That final settlement is made upon completion of the work;
19

20 Article 262. **PLACE OF PAYMENT.** – Payment of wages shall be made at or near the place of
21 undertaking, except as otherwise provided by such regulations as the Secretary of Labor and
22 Employment may prescribe under conditions to ensure greater protection of wages.
23

24 Article 263. **DIRECT PAYMENT OF WAGES.** – Wages shall be paid directly to the workers to
25 whom they are due, except:
26

- 27 (a) In case of force majeure rendering such payment impossible or under other special
28 circumstances to be determined by the Secretary of Labor and Employment in appropriate
29 regulations, in which case the worker may be paid through another person under written
30 authority given by the worker for the purpose; or
31
32 (b) Where the worker has died, in which case, the employer may pay the wages of the deceased
33 worker to the heirs of the latter without the necessity of interstate proceedings. The
34 claimants, if they are all of age, shall execute an affidavit attesting to their relationship to the
35 deceased and the fact that they are his heirs, to the exclusion of all other persons. If any of
36 the heirs is a minor, the affidavit shall be executed on his behalf by his natural guardian or
37 next of kin. The affidavit shall be presented to the employer who shall make payment
38 through the Secretary of Labor and Employment or his representative. The representative of
39 the Secretary of Labor and Employment shall act as a referee in dividing the amount paid
40 among the heirs. The payment of wages under this Article shall absolve the employer of any
41 further liability with respect to the amount paid.
42

43 Article 264. **PAYMENT BY RESULTS.** – *Piece-rate employees including pakyaw, working in the*
44 *company premises shall be entitled to minimum wage, holiday pay, premium pay, overtime pay,*
45 *vacation leave, sick leave, night shift differential pay, 13th month pay and other benefits granted*
46 *by law, individual or collective agreement or company policy or practice.* (PM proposal:
47 FORMERLY Art. 101 of LC)
48

CHAPTER IX
PROHIBITION AGAINST WAGES

Article 265. **NON-INTERFERENCE IN THE DISPOSAL OF WAGES.** – No employer shall limit or otherwise interfere with the freedom of any employee to dispose of his/her wages. He/she shall not in any manner force, compel or oblige his/her employees to purchase merchandise, commodities or other properties from the employer or from any other person or otherwise make use of any store or service of such employer or any other person

It shall be prohibited for the employer to require an employee to sign a blank document or folded document without conveying the content thereof, as precondition for the payment of wage and other benefits under this code. (PM proposal: italics incorporated to Art. 112 of LC)

Article 266. **WAGE DEDUCTION.** – No employer, in his/her own behalf or in behalf of any person, shall make any deduction from the wages of his/her employees, except:

- a. For union dues, in cases where the right of the worker or his/her union to check-off has been recognized by the employer or authorized in writing by the individual worker concerned; and
- b. In cases where the employer is authorized by law or regulations issued by the secretary of Labor.

Article 267. **DEPOSIT FOR LOSS OR DAMAGE.** – No employer shall require his worker to make deposits from which deductions shall be made for the reimbursement of loss of or damage to tools, materials or equipment supplied by the employer, except when the employer is engaged in such trades, occupations or business where the practice of making deduction and requiring deposits is a recognized one or is necessary or desirable as determined by the Secretary of the Department of Labor and Employment in appropriate rules and regulations.

Article 268. **LIMITATIONS.** – No deduction from the deposits of an employee for the actual amount of the loss or damage shall be made unless the employee has been heard thereon, and his responsibility has been clearly shown.

Article 269. **WITHHOLDING OF WAGES AND KICKBACKS PROHIBITED.** – It shall be unlawful for any person, directly or indirectly, to withhold any amount from the wages of a worker or the 8th of March, the first of November and the last day of the year as special days induce him/her to give up by force, stealth, intimidation, threat or by any other means whatsoever without the worker's consent.

Any person violating this provision shall suffer the penalty prescribed in Article ____ of this code. (PM proposal: italics incorporated to Art. 116 of LC)

Article 270. **DEDUCTION TO ENSURE EMPLOYMENT.** – *It shall be unlawful to make any deduction from the wages of any employee in the form of wage bond deposit from which deductions shall be made for the reimbursement for loss of or damage to tools, materials or equipment supplied by the employer, or as consideration of a promise of employment or retention of employment. Any person violating this provision shall be punished by a fine of not less than one thousand pesos (P1, 000) not more than ten thousand pesos (P10, 000) and/or imprisonment*

1 ***of not less than one (1) year nor more than three (3) years, or both such fine and imprisonment,***
2 ***at the discretion of the labor court.*** (PM proposal: formerly 117 of LC)

3
4 Article 271. **RETALIATORY MEASURE.** – It shall be unlawful for an employer to refuse to pay
5 or reduce the wages and benefits, discharge or in any manner discriminate against any employee
6 who has filed any complaint or instituted any proceeding under this Title or has testified or is about
7 to testify in such proceedings.

8
9 Any person violating this provision shall suffer the penalty prescribed in the preceding
10 provision of this chapter.

11
12 Article 272. **FREEDOM TO BARGAIN.** – No wage order shall be construed to prevent workers
13 in particular firms and enterprises of industries from bargaining for higher wages with their
14 respective employers.

15
16 Article 273. **PROHIBITION AGAINST DIMINUTION OR ELIMINATION OF WAGES**
17 **AND BENEFITS.** – No Authority shall issue an order that shall provide for wage rates lower than
18 the statutory minimum wage rates prescribed by Congress.

19
20 Article 274. **ATTORNEY’S FEES.** – In case of unlawful withholding of wages, the culpable party
21 may be assessed attorney’s fees equivalent to ten percent (10%) of the amount of wages recovered.

22
23 **CHAPTER X**
24 **ADMINISTRATION AND ENFORCEMENT**

25
26 Article 275. **VISITORIAL AND ENFORCEMENT POWERS.** –

- 27
28 (a) The Secretary of Labor and Employment or his duly authorized representatives, including
29 labor regulation officers, shall have access to employer’s records and premises at any time
30 of the day or night whenever work is being undertaken therein, and the right to copy there
31 from and to question any employee and investigate any fact, condition or matter which may
32 be necessary to determine violations or which may aid in the enforcement of this Code and
33 of any labor law, wage order or rules and regulations issued pursuant thereto.
34
35 (b) The Secretary of Labor and Employment or his duly authorized representative shall have
36 the power to issue compliance orders to give effect to the labor standards provisions of this
37 Code and other labor legislation based on the findings of labor employment and enforcement
38 officers or industrial safety engineers made in the course of inspection.
39
40 (c) ***For purposes of inspection, the Secretary of Labor shall deputize authorized***
41 ***representatives of different labor organizations, together with his/her duly authorized***
42 ***representatives during inspection in the performance of visitorial and enforcement power.***
43 (PM proposal: italics incorporated to Art. 128 of LC)
44
45 (d) The Secretary of Labor and Employment may likewise order stoppage of work or
46 suspension of operations of any unit or department or establishment when non-compliance
47 with the law or implementing rules and regulations poses grave and imminent danger to the
48 health and safety of workers in the work place. Within twenty-four hours a hearing shall be
49 conducted to determine whether an order for the stoppage of work or suspension of
50 operations shall be lifted or not. In case the violation is attributable to the fault of the

1 employer, he shall pay the employee concerned their salaries or wages during the period of
2 such stoppage of work or suspension of operations.

- 3
- 4 (e) It shall be unlawful for any person or entity to obstruct, impede, delay or otherwise render
5 ineffective the orders of the secretary of Labor and Employment or his duly authorized
6 representatives issued pursuant to the authority granted under this Article, and no inferior
7 Court or entity shall issue temporary or permanent injunction or restraining order or
8 otherwise assume jurisdiction over any case involving the enforcement orders issued in
9 accordance with this Article.
- 10
- 11 (f) *Any government employee or authorized representative of legitimate labor organizations*
12 *found guilty of violation of, or abuse of authority, under this article shall, after*
13 *appropriate administrative investigation, be subject to summary dismissal from service or*
14 *as deputized by authorized representative without prejudice to any appropriate criminal*
15 *charges under the revised Penal Code or special law.* (PM proposal: italics incorporated to
16 Art. 128 of LC)
- 17
- 18 (g) The Secretary of Labor and Employment may, by appropriate regulations, require employers
19 to keep and maintain such employment records as may be necessary in aid of his visitorial
20 and enforcement powers under this Code.
- 21

22

23 **CHAPTER XI**

24 **MISCELLANEOUS PROVISION**

25

26 **Art. 276. POSTING OF BOND.** *Company, corporation, entity or any establishment or enterprise*
27 *shall be required to post cash or surety bond of not less than five million pesos (P5,000,000) upon*
28 *the effectivity of this Code, before the Department of Labor to guarantee future claims and other*
29 *monetary benefits under this Code.*

30

31 *No company, corporation, entity or any establishment or enterprise shall be given*
32 *authority or license to operate, transact or conduct business unless upon showing of certification*
33 *from DOLE attesting compliance with the required bond.* (PM proposal)

34

35

36 **BOOK III**

37 **LABOR RELATIONS**

38

39 **TITLE I**

40 **GENERAL PROVISIONS**

41

42 **CHAPTER I**

43 **DECLARATION OF POLICY**

44

45 **Article 277. STATEMENT OF POLICY.** – It is the policy of the State:

46

- 47 a. To promote and emphasize the primacy of free collective bargaining and negotiations,
48 mediation and conciliation, as mode of settling labor or industrial dispute;
- 49 b. To promote free trade unionism as an instrument for the enhancement of democracy and
50 the promotion of social justice and development;

- c. To foster the free and voluntary organization, independent and united labor movement;
- d. To promote enlightenment of workers concerning their rights and obligation as union members and as employees and to promote labor education among students, out-of-school youth and workers;
- e. To provide an adequate administrative and judicial machinery for the expeditious resolution of labor or industrial disputes and imposition of penal sanctions;
- f. To ensure labor justice to achieve dynamic and industrial peace; and
- g. To ensure the participation of workers in decision and policy-making processes affecting their rights, duties and welfare.
- h. To encourage a truly democratic method of regulating the relations between the employers and employees by means of agreements freely entered into through collective bargaining ***which shall be a compulsory process in fixing wages, rates of pay, hours of work and other terms and conditions of employment as far as practicable.*** (PM proposal: italics incorporated to Art. 211(B) of LC)

Article 278. TRIPARTISM. – *Tripartism in labor relations is hereby declared a state policy. Towards this end, workers and employers shall as far as practicable be represented in decision and policy-making bodies of the government to protect labor. The Secretary of Labor and Employment or his duly authorized representatives may from time to time call a national, regional, or industrial tripartite conference of representatives of government, workers and employers for the consideration and adoption of voluntary modes of principles designed to promote industrial peace based on social justice or to align labor movement relations with established priorities in economic and social development. In calling such conference, the Secretary of Labor and Employment may consult with accredited representatives of workers and employers as maybe provided under this Code.* (PM proposal based from COCLE)

CHAPTER II

COVERAGE

Article 279. COVERAGE. – *This book shall apply to all workers employed in the private and public sector regardless of the employment status of the workers.* (PM proposal)

Article 280. RIGHT OF GOVERNMENT EMPLOYEES. – *The terms and conditions of employment of all government employees, including employees of government-owned and controlled corporations, shall be governed by the Civil Service Law, rules and regulations. Their salaries shall be standardized by Congress as provided for in the Constitution. (However, there shall be no reduction of existing wages, benefits and other terms and conditions of employment being enjoyed by them at the time of the adoption of this Code).* (PM proposal)

Article 281. DEFINITION OF TERMS. –

- (a) "**Bureau**" means the Bureau of Labor Relations and/or the Labor Relations Divisions in the regional offices established under Presidential Decree No. 1, in the Department of Labor and employment;
- (b) "**Board**" means the National Conciliation and Mediation Board established under executive Order No. 126, as amended by Executive Order No. 251.
- (c) "**Employee**" includes any person in the employ of an employer. The term shall not be limited to the employees of a particular employer, unless this Code so explicitly states. It shall include any individual whose work has ceased as a result of or in connection with

- any current labor dispute or because of any unfair labor practice if he has not obtained any other substantially equivalent and regular employment.
- (d) **"Labor organization"** means any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment.
 - (e) **"Legitimate Labor Organization"** means any labor organization duly registered with the Department of Labor and Employment, and includes any branch or local thereof.
 - (f) **"Company union"** means any labor organization whose formation, function or administration has been assisted by any act defined as unfair labor practice by this Code.
 - (g) **"Bargaining representative"** means a legitimate labor organization whether or not employed by the employer.
 - (h) **"Unfair labor practice"** means any unfair labor practice as expressly defined by this Code.
 - (i) **"Labor dispute"** includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.
 - (j) **"Managerial employee"** is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees. Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. All employees not falling within any of the definitions of managerial or supervisory employee are considered rank-and-file employees for purposes of this Book.
 - (k) **"Voluntary arbitrator"** means any person accredited by the Board as such, or any person named or designated in the Collective Bargaining Agreement by the parties to act as their Voluntary Arbitrator, or one chosen, with or without the assistance of the National Conciliation and Mediation Board, pursuant to a selection procedure agreed upon in the collective bargaining agreement, or any other official that may be authorized by the Secretary of Labor and Employment to act as voluntary arbitrator upon the written request and agreement of the parties to a labor dispute.
 - (l) **"Strike"** means any temporary stoppage of work by the concerted action of employees as a result of an industrial or labor dispute.
 - (m) **"Lockout"** means the temporary refusal of an employer to furnish work as a result of an industrial or labor dispute.
 - (n) **"Internal union dispute"** includes all disputes or grievances arising from any violation of or disagreement over any provision of the constitution and by-laws of a union, including any violation of the rights and conditions of union membership provided for in this Code.
 - (o) **"Strike breaker"** means any person who obstructs, impedes, or interferes with by force, violence, coercion, threats or intimidation any peaceful picketing by employees during any labor controversy affecting wages, hours or conditions of work or in the exercise of the right of self-organization or collective bargaining.
 - (p) **"Strike area"** means the establishment, warehouses, depots, plants or offices, including the sites or premises used as run-away shops, of the employer struck against, as well as the immediate vicinity actually used by picketing strikers in moving to and fro before all points of entrance to and exit from said establishment.

TITLE II
THE BUREAU OF LABOR RELATIONS

Article 282. **BUREAU OF LABOR RELATIONS.** – The Bureau of Labor Relations and the Labor relations divisions in the regional offices of the Department of Labor and Employment shall have the original and exclusive authority to act at their own initiative or upon request of either or both parties, on all inter-union and intra-union conflicts, and all disputes, grievances or problems arising from or affecting labor-management relations in all work places whether agricultural or non-agricultural **including** those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject of grievance and/or voluntary arbitration.

The Bureau shall have fifteen (15) working days to act on labor cases before it, ***subject to another non-extendible period of fifteen (15) days, as agreed upon by the parties.*** (PM proposal: italics incorporated to Art. 226 of LC)

Article 283. **COMPROMISE AGREEMENT.** – Any compromise settlement, including those involving labor standard laws, voluntarily agreed upon by the parties with the assistance of the Bureau and its Regional Branches shall be final and binding upon the parties. The Bureau or any court shall not assume jurisdiction over issues involved therein except in cases of noncompliance thereof or if there is a prima facie evidence that the settlement was obtained through fraud, misrepresentation, or coercion.

Article 284. **ISSUANCE OF SUBPOENAS.** – The Bureau shall have the power to require the appearance of any person or the production of any paper, document or matter relevant to a labor dispute under its jurisdiction either at the requests of any interested party or its own initiative.

Art. 285. **APPOINTMENT OF BUREAU PERSONNEL.** - The Secretary of Labor and Employment may appoint, in addition to the present personnel of the Bureau and the Industrial Relations Division, such number of examiners and other assistants as may be necessary to carry out the purpose of this Code.

Art. 286. **REGISTRY OF UNIONS AND FILE OF COLLECTIVE AGREEMENTS.** – The Bureau shall keep a registry of legitimate labor organizations. The Bureau shall also maintain a file of all collective bargaining agreements and other related agreements and records of settlement of labor disputes, and copies of orders, and decisions of ***Bureau of Labor Relations.*** The file shall be open and accessible to interested parties under conditions prescribed by the Secretary of the Department of Labor and Employment provided that no specific information submitted in confidence shall be disclosed unless authorized by the Secretary, or when it is at issue in any judicial litigation or when public interest or national security so requires.

The Bureau or regional office shall assess the employer for every Collective Bargaining Agreement a registration fee of not less than ***two thousand pesos (P2,000)*** or in any other amount as may be deemed appropriate and necessary by the Secretary of the Department of Labor and Employment. ***Any amount collected under this provision shall accrue to the fund for labor education of workers.*** (PM proposal: italics incorporated to Art. 231 of LC)

Article 287. FORMATION OF LABOR MANAGEMENT COMMITTEE. – ***In establishments where no legitimate labor organization exists, labor-management committees shall be formed by workers and employer for the purpose of promoting labor rights, welfare and industrial peace. The Department of Labor and Employment shall endeavor to enlighten and educate the workers***

1 *and employers on their rights and responsibilities through labor education with emphasis on the*
2 *policy thrusts of this code. Provided, that the establishment of labor-management committee shall*
3 *not preclude the workers in the exercise of their right to form unions.* (PM proposal)
4

5 **Art. 288. COMMUNICATION AS EVIDENCE.** – *Information and agreements made at*
6 *conciliation proceedings shall be treated or used as evidence in the proceeding before the*
7 *Bureau, Voluntary Arbitration and the Labor Court.* (PM proposal: formerly Art. 233)
8

9
10 **TITLE III**
11 **RIGHT TO SELF-ORGANIZATION**

12 **CHAPTER I**
13 **REGISTRATION REQUIREMENT OF LABOR ORGANIZATIONS**
14

15 **Article 289. REQUIREMENTS OF REGISTRATION.** –
16

17 **A. Independent**
18

19 Any applicant labor organization, association or group of unions or workers shall acquire legal
20 personality and shall be entitled to the rights and privileges granted by law to legitimate labor
21 organizations upon issuance of the certificate of registration based on the following requirement:
22

- 23 (a) The names of its officers, their addresses, the principal address of the labor organization, the
24 minutes of the organizational meeting and the list of the workers who participated in such
25 meetings;
26
27 (b) The names of all its members comprising at least twenty percent (20%) of all the employees
28 in the bargaining unit where it seeks to operate;
29
30 (c) Four (4) copies of the constitution and by-laws of the applicant union, minutes of its
31 adoption or ratification, and the list of the members who participated in it. (PM proposal
32 deleted Par (a) and (d) of Art. 234 of LC)
33

34 **B. Chartered Unions**

35 *A local or chartered union becomes a legitimate labor organization only upon the*
36 *submission of the following to the Bureau of Labor Relations:*
37

- 38 (a) *Charter certificate issued by a federation or national union evidencing the*
39 *establishment of a local/chapter, within thirty (30) days from the issuance thereof;*
40 *and*
41
42 (b) *The constitution and by-laws and statement of the set of officers all of which shall be*
43 *certified under oath by secretary or treasurer, as the case may be, of such local or*
44 *chapter, and attested to by its president.* (D.O No. 9 and Book V, Rule III, Sec 1 of
45 IRR)
46
47

48 **Art. 290. ACTION ON APPLICATION.** – The Bureau shall act on all applications for registration
49 within *seven (7) working days from filing.* (PM proposal: italics incorporated to Art. 235 of LC)
50

1 All requisite documents and papers shall be certified under oath by the Secretary or the
2 treasurer of the organization, as the case may be, and attested to by its president.
3

4 **Art. 291. ISSUANCE OF REGISTRATION.** – *Applicant union shall not be issued certificate of*
5 *registration unless upon compliance of the requirements for registration: Provided, that*
6 *submission of the requirements without action from the Bureau of Labor Relations within seven*
7 *(7) working days from receipt thereof, shall consider the applicant union as duly registered*
8 *legitimate labor organization.* (PM proposal)
9

10 **Art. 292. ADDITIONAL REQUIREMENTS FOR FEDERATIONS OR NATIONAL**
11 **UNIONS.** – If the applicant for registration is a federation or a national union, it shall in addition to
12 the requirements of the preceding Articles, submit the following:
13

- 14 (a) Proof of the affiliation of at least ten (10) locals or chapters, each of which must be a duly
15 recognized collective bargaining agent in the establishment or industry in which it operates,
16 supporting the registration of such applicant federation or national union; and
17
- 18 (b) The names and addresses of the companies where the locals or chapters operate and the list
19 of all the members in each company involved.
20

21 **Art. 293. CANCELLATION OF REGISTRATION.** – *The certificate of registration of any*
22 *legitimate labor organization, whether national or local, may be cancelled by the Bureau, after*
23 *proper hearing.* (PM proposal: italics incorporated to Art. 238 of LC)
24

25 The following shall constitute grounds for cancellation of union registration:
26

- 27 (a) Misrepresentation, false statement or fraud in connection with the adoption or ratification of the
28 constitution and bylaws or amendments thereto, the minutes of ratification, and the list of
29 members who took part in the ratification;
- 30 (b) Misrepresentation, false statements or fraud in connection with the election of officers, minutes
31 of the election of officers, the list of voters, or failure to submit these documents together with
32 the list of the newly elected/appointed officers and their postal addresses within thirty (30) days
33 from election;
34

35 *Provided, that any other form of misrepresentation false statement or fraud committed by*
36 *individual officers or members shall not be a ground for cancellation but shall subject the*
37 *erring officers or members to suspension, expulsion from membership, or any appropriate*
38 *penalty as may be imposed by the organization's constitution and by-laws, or as the*
39 *membership may decide.* (PM proposal: italics incorporated to Art. 239(c) of LC)
40

- 41 (c) Acting as a labor contractor or engaging in the “cabo” system, or otherwise engaging in any
42 activity prohibited by law;
- 43 (d) Entering into collective bargaining agreements which provide terms and conditions of
44 employment below minimum standards established by law;
- 45 (e) Asking for or accepting attorney’s fees without duly signed individual written authorizations of
46 the members *or a general membership resolution authorizing the same.* (PM proposal: italics
47 incorporated to Art. 239(g) of LC)
48
49

CHAPTER II
RIGHTS AND PRIVILEGES OF LABOR ORGANIZATION

Article 294. COVERAGE. – *Any employee, whether employed for a definite period or not, shall, beginning on his first day of service, be considered an employee for purposes of membership in any labor union.* (PM proposal transferred from miscellaneous provision)

Article 295. EMPLOYEE’S RIGHT TO SELF-ORGANIZATION. - All Employees shall have the right to self-organization and to form, join or assist labor organizations of their own choosing for purposes of collective bargaining.

Article 296. WORKERS ASSOCIATION. - *Ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers may form workers associations for the purpose of enhancing and defending their interests and for their mutual aid and protection.* (PM proposal)

Article 297. RIGHT OF EMPLOYEES IN THE PUBLIC SERVICE. – *Employees of all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned and controlled corporations with or without original charters shall have the right to organize, to bargain collectively with their respective employers and to engage in peaceful concerted activities, including the right to strike for purposes of collective bargaining for their mutual benefit and protection.*

Terms and conditions of employment or improvements thereof may be the subject of negotiations between duly recognized employee’s organizations and appropriate government authorities except those that require the appropriation of funds and hiring/appointment to public service.

The following, however, are not eligible to form employee’s organizations and to engage in any concerted activities:

- a. High level employees whose function are normally considered as policy-making or managerial or whose duties are of a highly confidential nature;*
- b. Members of the Armed Forces of the Philippines*
- c. Uniformed personnel of the Philippine National Police (PNP) and Bureau of Jail Management of the Philippines (BJMP).* (PM proposed amendment in 12th Congress)

Article 298. INELIGIBILITY OF MANAGERIAL EMPLOYEES TO JOIN ANY LABOR ORGANIZATION; RIGHT OF SUPERVISORY EMPLOYEES. – Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in collective bargaining units of the rank-and-file employees but may join, assist or form separate collective bargaining units and/or legitimate labor organizations of their own. *The rank-and-file union and the supervisors’ union may join the same federation or national union.* (COCLE: formerly Art. 245)

Article 299. RIGHTS OF LEGITIMATE LABOR ORGANIZATIONS. – A legitimate labor organization shall have the right:

- 1 (a) To act as the representative of its members for the purpose of collective bargaining;
2
3 (b) To be certified as the exclusive representative of all the employees in an appropriate
4 collective bargaining unit for purposes of collective bargaining;
5
6 (c) To be furnished by the employer, upon written request, with his annual audited financial
7 statements, including the balance sheet and the profit and loss statement, within thirty (30)
8 calendar days from the date of receipt of the request, after the union has been duly
9 recognized by the employer or certified as the sole and exclusive bargaining representative
10 of the employees in the bargaining unit, or within sixty (60) calendar days before the
11 expiration of the existing collective bargaining agreement, or during the collective
12 bargaining negotiation;
13
14 (d) To own property, real or personal, for the use and benefit of the labor organization and its
15 members;
16
17 (e) To sue and be sued in its registered name; and
18
19 (f) To undertake all other activities designed to benefit the organization and its members,
20 including cooperative, housing welfare and other projects not contrary to law.
21
22 (g) ***To collect reasonable union fees, dues, assessments and fines and other contributions for***
23 ***labor education and research, mutual death and hospitalization benefits, welfare fund,***
24 ***strike fund and credit and cooperative undertakings, provided the same shall be approved***
25 ***and/or authorized by the general membership.*** (PM proposal: italics incorporated to Art.
26 242 of LC)
27
28 (h) ***To file a case in behalf of its members without the need of requiring the general***
29 ***membership or the members concerned to sign in the verification and certification of non-***
30 ***forum shopping and the likes;*** (PM proposal: italics incorporated to Art. 242 of LC)
31

32 Notwithstanding any provision of a general or special law to the contrary, the income and
33 the properties of legitimate labor organizations, including grants, endowments, gifts, donations and
34 contributions they may receive from fraternal and similar organizations, local or foreign, which are
35 actually, directly and exclusively used for their lawful purposes, shall be free from taxes, duties, and
36 other assessments. The exceptions provided herein may be withdrawn only by a special law
37 expressly repealing this provision.
38

39 Article 300. **RIGHTS AND CONDITIONS OF MEMBERSHIP IN A LABOR**
40 **ORGANIZATION.** – The following are the rights and conditions of membership in a labor
41 organization:
42

- 43 a. The members shall directly elect their officers, including those of the national union or
44 federation, trade union center or any similar association to which their union is affiliated, by
45 secret ballot at intervals ***as provided for by the union's Constitution and By-Laws.*** No
46 qualification requirements for candidacy to any position shall be imposed other than
47 membership in good standing in subject labor organization. The secretary or any responsible
48 union officer shall furnish the Secretary of the Department of Labor and Employment with a
49 list of a newly elected officers together with the appointive officers or agents who are
50 entrusted with the handling of funds within thirty (30) calendar days after the election of

1 officers or from the time of any change in the list of officers of the labor organization. (PM
2 proposal: italics incorporated to Art. 241(c) of LC)
3
4

- 5 b. No person who has been convicted of a crime involving moral turpitude shall be eligible for
6 election as a union officer or for appointment to any position in the union;
7
8 c. No officer, agent or member of a labor organization shall collect any fees, dues, or other
9 contributions in its behalf or make any disbursements of its moneys or funds unless he is
10 duly authorized pursuant to its constitution and by-laws;
11
12 d. Every payment of fees, dues or other contributions by a member shall be evidenced by a
13 receipt signed by the officer or agent making the collection and entered into the record of the
14 organization to be kept and maintained for the purpose;
15
16 e. The funds of the organization shall not be applied for any purpose or object other than those
17 expressly provided by its constitution and by-laws or those expressly authorized by written
18 resolution adopted by the majority of the members at a general meeting duly called for the
19 purpose;
20
21 f. Every income or revenue of the organization shall be evidenced by a record showing its
22 source and every expenditure of its funds shall be evidenced by a receipt from the person to
23 whom the payment was made, which shall state the date, place and purpose of such
24 payment. Such records or receipt shall form part of the financial records of the organization;
25
26 g. ***The officers of any labor organization shall not be paid any compensation other than the***
27 ***salaries and expenses due to their positions as specifically provided for in its constitution***
28 ***and by-laws or in a resolution duly authorized by a majority of all the members at a***
29 ***general membership meeting duly called for the purpose;*** (PM proposal: deleted 2nd
30 sentence of Art. 241(k))
31
32 h. The treasurer of any labor organization and every officer thereof who is responsible for the
33 account of such organization for the collection, management, disbursement, custody or
34 control of the funds, money and other property of the organization, shall render to the
35 organization and to the members a true and correct account of all money received and paid
36 by him/her since he/she assumed office or since the last day on which he/she rendered such
37 account, and all bonds, securities and other properties of the organization entrusted to his/her
38 custody or under his/her control. The rendering of such account shall be made:
39
40 i. At least once a year within thirty (30) days after the close of its fiscal year;
41
42 ii. At such other times as may be required by a resolution of a majority of the
43 members of the organization; and
44
45 iii. Upon vacating his/her office.
46
47 ***The account shall be duly audited and verified by affidavit.*** (PM proposal: deleted “..and
48 copy thereof shall be furnished the Sec. Of Labor”)
49
50 i. The books of accounts and other records of the financial activities of any labor organization
51 shall be opened to inspection by any officer or member thereof during office hours;

- 1
2 j. No special assessment or other extraordinary fees may be levied upon the members of a
3 labor organization unless authorized by a written resolution of a majority of all the members
4 of a general membership meeting duly called for the purpose. The secretary of the
5 organization shall record the minutes of the meeting including the list of all members
6 present, the votes cast, the purpose of the special assessment or fees and the recipient of
7 such assessment or fees. The record shall be attested to by the president.
8
9 k. Other than for mandatory activities under the Code, no special assessments, attorney's fees,
10 negotiation fees or any other extraordinary fees may be checked off from any amount due to
11 an employee without an individual written authorization duly signed by the employee. The
12 authorization should specifically state the amount, purpose and beneficiary of the deduction;
13
14 l. It shall be the duty of any labor organization and its officers to inform its members on the
15 provision of its constitution and by-laws, collective bargaining agreement, the prevailing
16 labor relations system and all their rights and obligations under existing labor laws.
17

18 For this purpose registered labor organizations **shall** assess reasonable dues to finance labor
19 relations seminar and other labor education activities.
20

21 Any violations of the above rights and conditions of membership shall be ground for
22 expulsion of officer from office, which ever is appropriate. ***Expulsion of an erring officer of the***
23 ***union shall be determined in accordance with the union's Constitution and By-Laws and its rules***
24 ***and regulation.*** (PM proposal: italics incorporated to Art. 241 of LC)
25

26 Article 301. **NON-ABRIDGEMENT OF RIGHT TO SELF-ORGANIZATION.** - It shall be
27 unlawful for any person to restrain, coerce, discriminate against or unduly interfere with employees
28 and workers in their exercise of the right to self-organization. Such right shall include the right to
29 form, join, or assist labor organizations for the purpose of collective bargaining through
30 representatives of their own choosing and to engage in lawful concerted activities for the same
31 purpose or for their mutual aid and protection, subject to the provisions of Article 264 of this Code.
32

33 ***Article 302. PENAL PROVISION. – Any person violating any provisions of this chapter shall be***
34 ***punished by imprisonment of not less than six (6) months nor more than two (2) years or fine of***
35 ***not less than ten thousand pesos (P10,000) nor more than fifty thousand pesos (P50,000) or both***
36 ***such fine and imprisonment at the discretion of the labor court.*** (PM proposal)
37

38
39 **TITLE IV**
40 **COLLECTIVE BARGAINING AND ADMINISTRATION OF AGREEMENT**
41

42
43 **CHAPTER I**
44 **COLLECTIVE BARGAINING**
45

46 Article 303. **DUTY TO BARGAIN COLLECTIVELY IN THE ABSENCE OF A**
47 **COLLECTIVE AGREEMENT.** – In the absence of an agreement providing for a more
48 expeditious manner of collective bargaining, it shall be the duty of employer and representative of
49 the employees to bargain collectively in accordance with the provisions of this Code.
50

Article 304. **MEANING OF THE DUTY TO BARGAIN COLLECTIVELY.** – The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement with respect to wages, hours of work and all other terms and conditions of employment including proposals for adjusting any grievances or questions arising under such agreement and executing a contract incorporating such agreements if requested by either party but such duty does not compel any party to agree to a proposal or to make any concession.

Article 305. **DUTY TO BARGAIN COLLECTIVELY WHEN THERE EXISTS A COLLECTIVE BARGAINING AGREEMENT.** – When there is a collective bargaining agreement, the duty to bargain collectively shall also mean that neither party shall terminate or modify such agreement during its lifetime. However, either party can serve a written notice to terminate or modify the agreement at least sixty (60) days prior to its expiration date. It shall be the duty of both parties to keep the status quo and to continue in full force and effect the terms and conditions of the existing agreement during the 60-day period and/or until a new agreement is reached by the parties.

Article 306. **TERMS OF A COLLECTIVE BARGAINING AGREEMENT.** – *Any Collective Bargaining Agreement that the parties may enter into shall, insofar as the representation aspect is concerned, be for a term of three (3) years. No petition questioning the majority status of the incumbent bargaining agent shall be entertained and no certification election shall be conducted by the Department of Labor and Employment outside of the sixty-day period immediately before the date of expiry of such three-year term of the Collective Bargaining Agreement. Any agreement on the provisions of the Collective Bargaining Agreement entered into shall retroact to the date immediately following such expiry date.* (PM proposal: formerly Art. 253-A of LC)

CHAPTER II

EXCLUSIVE BARGAINING REPRESENTATION AND WORKERS PARTICIPATION IN POLICY AND DECISION-MAKING

Article 307. **EXCLUSIVE BARGAINING REPRESENTATION.** – The labor organization designated or selected by the majority of the employees in an appropriate Collective Bargaining Unit shall be the exclusive representative of the employees in such unit for the purpose of collective bargaining. However, an individual employee or group of employees, outside the bargaining unit, shall have the right at anytime to present grievances to their employer.

Any provision of law to the contrary notwithstanding, workers shall have the right to policy and decision-making process, including but not limited to the promulgation of company rules and regulations, or code of conduct/discipline, of the establishment where they are employed insofar as said process will directly affect their rights, benefits, and welfare. For this purpose, workers and employers may form labor-management cooperation scheme. The representatives of the workers in such labor-management cooperation scheme shall be the duly elected union officers. (PM proposal: italics incorporated to Art. 255 of LC)

Article 308. **REPRESENTATION ISSUE IN ORGANIZED ESTABLISHMENT.** – In organized establishments, when a verified petition questioning the majority status of the incumbent bargaining agent is filed before the Department of Labor and Employment within the sixty-day period before the expiration of the collective bargaining agreement, the Med-Arbiter shall automatically order an election by secret ballot when the verified petition is supported by the

1 written consent of at least twenty-five percent (25%) of all the employees in the bargaining unit to
2 ascertain the will of the employees in the appropriate bargaining unit.

3
4 To have a valid election, at least a majority of all eligible voters in the unit must have cast
5 their votes. The labor union receiving the majority of the valid votes cast shall be certified as the
6 exclusive bargaining agent of all the workers in the unit.

7
8 When an election which provides for three or more choices results in no choice receiving a
9 majority of the valid votes cast, a run-off election shall be conducted between the labor unions
10 receiving the two highest number of votes: Provided, that the total number of votes for all
11 contending unions is at least fifty percent (50%) of the number of votes cast.

12
13 At the expiration of the freedom period, the employer shall continue to recognize the
14 majority status of the incumbent bargaining agent where no petition for certification election is
15 filed.

16
17 Article 309. **PETITION IN UNORGANIZED ESTABLISHMENT.** – In any establishment when
18 there is no certified bargaining agent, a certification election shall automatically be conducted by
19 the med-arbiter upon the filing of a petition by a legitimate labor organization, ***provided, however,***
20 ***that where there is no other legitimate labor organization filing a similar petition or any***
21 ***intervention therein, the petition for certification of election filed by a legitimate labor***
22 ***organization accompanied or supported by the names and signatures of the majority of the***
23 ***members of the bargaining unit, shall automatically be certified by the med-arbiter as the***
24 ***exclusive bargaining agent of all workers in the appropriate bargaining unit.*** (PM proposed
25 amendment in 12th Congress: italics incorporated to Art. 2257 of LC)

26
27 Article 310. **EMPLOYER AS BY-STANDER.** – ***In all cases, where the petition for certification***
28 ***election is filed by a legitimate labor organization, the employer shall not be considered a party***
29 ***thereto with a concomitant right to oppose a petition for certification election. The employer's***
30 ***participation in such proceedings shall be limited to:***

- 31
32 ***a. Being notified or informed of petitions of such nature, and***
33 ***b. Submitting the list of employees during the pre-election conference should the med-***
34 ***arbiter act favorably on the petition.*** (PM proposal)

35
36 Article 311. **APPEAL FROM CERTIFICATION ELECTION.** – ***Any legitimate labor***
37 ***organization, which is a party to a certification election may appeal the results of the election to***
38 ***the Bureau on the ground that the rules and regulations or parts thereof established by the***
39 ***Secretary of Labor and Employment for the conduct of the election have been violated. Such***
40 ***appeal shall be decided within fifteen (15) calendar days. The decision of the Bureau shall be***
41 ***final and executory.*** (Art. 265, COCLE: formerly Art. 259 of the LC)

42
43 Article 312. **PROHIBITION ON CERTIFICATION ELECTION.** – The Bureau shall not entertain
44 any petition for certification election or any other action, which may disturb the administration of
45 duly registered existing collective bargaining agreements affecting the parties except under Articles
46 305, 306 and 308 of this Code.

1
2
3 **CHAPTER III**
4 **GRIEVANCE MACHINERY**

5 Article 313. **GRIEVANCE MACHINERY.** – The parties to a Collective Bargaining Agreement
6 shall include therein provisions that will ensure the mutual observance of its terms and conditions.
7 They shall establish machinery for the adjustment and resolution of grievances arising from the
8 interpretation or implementation of the Collective Bargaining Agreement and those arising from the
9 interpretation and enforcement of company personnel policies.

10
11 All grievances submitted to the grievance machinery, which are not settled within seven (7)
12 days from the date of its submission shall automatically be referred to the Bureau of Labor
13 Relations as prescribed in the Collective Bargaining Agreement.
14

15
16 **CHAPTER IV**
17 **LABOR-MANAGEMENT COOPERATION SCHEME**
18

19 *Article 314. **LABOR-MANAGEMENT COOPERATION SCHEME.** – The Department of Labor*
20 *and Employment shall help promote and gradually develop with agreement of labor*
21 *organizations and employers, labor management cooperation scheme at appropriate levels of the*
22 *enterprise based on shared responsibility and mutual respect in order to ensure industrial peace*
23 *and improvement in productivity, working conditions and the quality of working life. (PM*
24 *proposal)*

25
26 **TITLE V**
27 **UNFAIR LABOR PRACTICE**
28

29 **CHAPTER I**
30 **CONCEPT OF UNFAIR LABOR PRACTICE**
31

32 Article 315. **CONCEPT OF UNFAIR LABOR PRACTICE.** – Unfair labor practices violate the
33 constitutional right of workers and employees to self-organization, are inimical to the legitimate
34 interests of both labor and management, including their right to bargain collectively and otherwise
35 deal with each other in an atmosphere of freedom and mutual respect, disrupt industrial peace and
36 hinder the promotion of healthy and stable labor-management relations. Consequently, unfair labor
37 practices are not only violations of the civil rights of both labor and management but are also
38 criminal offenses against the State, which shall be subject to prosecution and punishment as herein
39 provided.
40

41 Article 316. **PROCEDURE FOR PERSECUTION OF UNFAIR LABOR PRACTICE.** –
42 Subject to the exercise by the President or by the Secretary of Labor and Employment of the powers
43 vested in them by Articles 321 and 322 of this Code, the civil aspects of all cases involving unfair
44 labor practices, which may include claims for actual, moral, exemplary and other forms of damages,
45 attorney's fees and other affirmative relief, shall be under the jurisdiction of the Labor Court. The
46 Labor Court shall give utmost priority to the hearing and resolution of all cases involving unfair
47 labor practices. They shall resolve such cases within thirty (30) calendar days from the time they are
48 submitted for decision. Recovery of civil liability in the administrative proceedings shall bar
49 recovery under the Civil Code. No criminal prosecution under this Title may be instituted without a
50 final judgment, finding that an unfair labor practice was committed, having been first obtained in

1 the preceding paragraph. During the pendency of such administrative proceeding, the running of the
2 period of prescription of the criminal offense herein penalized shall be considered interrupted:
3 Provided, however, That the final judgment in the administrative proceedings shall not be binding
4 in the criminal case nor be considered as evidence of guilt but merely as proof of compliance of the
5 requirements therein set forth.

6
7 **CHAPTER II**
8 **UNFAIR LABOR PRACTICE**
9

10 Article 317. **UNFAIR LABOR PRACTICES OF EMPLOYERS.** – It shall be unlawful for an
11 employer to commit any of the following unfair labor practice:

- 12
13 (a) To interfere with, restrain or coerce employees in the exercise of their right to self-
14 organization;
15
16 (b) To require as a condition of employment that a person or an employee shall not join a labor
17 organization or shall withdraw from one to which he belongs;
18
19 (c) To contract out services or functions being performed by union members when such will
20 interfere with, restrain or coerce employees in the exercise of their right to self-organization;
21
22 (d) To initiate, dominate, assist or otherwise interfere with the formation or administration of
23 any labor organization, including the giving of financial or other support to it or its
24 organizers or supporters;
25
26 (e) To discriminate in regard to wages, hours of work, and other terms and conditions of
27 employment in order to encourage or discourage members in any labor organization.
28 Nothing in this Code or in any other law shall stop the parties from requiring membership in
29 a recognized collective bargaining agent as a condition for employment, except those
30 employees who are already members of another union at the time of the signing of the
31 collective bargaining agreement. Employees of an appropriate collective bargaining unit
32 who are not members of the recognized collective bargaining agent may be assessed a
33 reasonable fee equivalent to the dues and other fees paid by members of the recognized
34 collective bargaining agent, if such non-union members accept the benefits under the
35 collective agreement: Provided, That the individual authorization required under Article
36 300, paragraph (k) of this Code shall not apply to the non-members of the recognized
37 collective bargaining agent;
38
39 (f) To dismiss, discharge, or otherwise prejudice or discriminate against an employee for
40 having given or being about to give testimony under this Code;
41
42 (g) To violate the duty to bargain collectively as prescribed by this Code;
43
44 (h) To pay negotiation or attorney's fees to the union or its officers or agents as part of the
45 settlement of any issue in collective bargaining or any other dispute; or
46
47 (i) To violate a collective bargaining agreement.
48

1 The provisions of the preceding paragraph notwithstanding, only the officers and agents of
2 corporations, associations, or partnerships who have actually participated in, authorized or ratified
3 unfair labor practices shall be held criminally liable.
4

5 **Article 318. PENAL PROVISIONS.** – *Commission of any of unfair labor practices under the*
6 *preceding article, shall be punished by imprisonment of not less than two (2) years nor more than*
7 *four (4) years, or a fine of not less than fifty thousand pesos (P50,000) nor more than one*
8 *hundred thousand pesos (P100,000) or both such fine and imprisonment at the discretion of the*
9 *labor court.* (PM proposal)
10

11 **Article 319. UNFAIR LABOR PRACTICES OF LABOR ORGANIZATION.** – It shall be
12 unfair labor practice for a labor organization, its officers, agents or representatives:
13

- 14 (a) To restrain or coerce employees in the exercise of their right to self-organization. However,
15 a labor organization shall have the right to prescribe its own rules with respect to the
16 acquisition or retention of membership;
17
- 18 (b) To cause or attempt to cause an employer to discriminate against an employee, including
19 discrimination against an employee with respect to whom membership in such organization
20 has been denied or to terminate an employee on any ground other than the usual terms and
21 conditions under which membership or continuation of membership is made available to
22 other members;
23
- 24 (c) To violate the duty, or refuse to bargain collectively with the employer, provided that it is
25 the representative of the employees;
26
- 27 (d) To cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any
28 money or other things of value, in the nature of an exaction, for services which are not
29 performed or not to be performed, including the demand for a fee for union negotiations;
30
- 31 (e) To ask for or accept negotiations or attorney's fees from employers as part of the settlement
32 of any issue in collective bargaining or any other dispute; or
33
- 34 (f) To violate a collective bargaining agreement.
35

36 The provision of the preceding paragraph notwithstanding, only the officers, members of
37 governing boards, representatives or agents or members of labor associations or organizations who
38 have actually participated in, authorized or ratified unfair labor practices shall be held criminally
39 liable.
40

41 **Article 320. PENAL PROVISIONS.** – *Any commission of unfair labor practices under the*
42 *preceding Article shall be punished by imprisonment or fine, or both such fine and imprisonment*
43 *prescribed under Article 318 of this Code.*
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TITLE VI
STRIKES, LOCKOUTS AND FOREIGN INVOLVEMENT IN
TRADE UNION ACTIVITIES

CHAPTER I
STRIKES AND LOCKOUTS

Article 321. **STRIKES, PICKETING AND LOCKOUTS.** –

- (a) It is the policy of the State to encourage free trade unionism and free Collective Bargaining;
- (b) *Workers shall have the right to engage in concerted activities for purposes of Collective Bargaining or for their mutual benefit and protection. The right of legitimate labor organizations to strike and picket and of employers to lockout, shall continue to be recognized and respected. However, no labor union may strike and no employer may declare a lockout on grounds involving inter-union and intra-union disputes.* (PM proposal: deleted “consistent with the national interest” of Art. 263(b))
- (c) In case of Bargaining deadlocks, the duly certified or recognized bargaining agent may file a notice of strike or the employer may file a notice of lockout with the Department of Labor and Employment at least *fifteen (15) days, before the intended date thereof*. In cases of unfair labor practice, the period of notice shall be *seven (7) days* and in the absence of a duly certified or recognized bargaining agent, the notice of strike may be filed by any legitimate labor organization in behalf of its members. *However in case of dismissal from employment of union officers duly elected in accordance with the union constitution and by-laws, which may constitute union busting where the existence of the union is threatened, the union may take action immediately without the necessity of filing notice of strike.* (PM proposal: italics incorporated to Art. 263(c) of LC)
- (d) The notice must be in accordance with such implementing rules and regulations as the Secretary of Labor and Employment may promulgate.
- (e) During the cooling-off period, it shall be the duty of the Department to exert all efforts at mediation and conciliation to effect a voluntary settlement. Should the dispute remain unsettled until the lapse of the requisite number of days from the mandatory filing of the notice, the labor union may strike or the employer may declare a lockout.
- (f) A decision to declare a strike must be approve by a majority of the total union membership in the bargaining unit concerned, obtained by secret ballot in a meeting or referenda called for that purpose. A decision to declare a lockout must be approved by a majority of the board of directors of the corporation or association or of the partners in a partnership, obtained by secret ballot in a meeting called for that purpose. *The decision shall be valid for the duration of the dispute based on substantially the same grounds considered when the strike or lockout vote was taken. In every case, the union or the employer shall furnish the Department of Labor and Employment the results of the voting at least seven days before the intended strike or lockout.* (PM proposal: deleted 2nd to the last sentence of Art.263(f) and “...subject to the cooling-off period herein provided” of the last sentence of the same Article)

1 (g) *When there exists a labor dispute causing or likely to cause a strike or lockout in an*
2 *industry fulfilling essential services, the Secretary of Labor and Employment may assume*
3 *jurisdiction over the dispute and decide the same within thirty (30) after such assumption.*
4 *The Secretary's decision shall be final and executory within ten (10) calendar days after*
5 *receipt thereof by the parties. The assumption or certification order shall have the effect*
6 *of automatically enjoining the intended or impending strike or lockout specified therein.*
7 *If a strike or lockout has already taken place at the time of assumption, all striking or*
8 *locked out employees under pain of contempt and payment of wages or salaries of the*
9 *workers, immediately resume operations and readmit all workers under the same terms*
10 *and conditions prevailing before the strike or lockout. Provided, however, that where no*
11 *decision is rendered by the Secretary within the said thirty (30) day period, the parties may*
12 *then exercise their respective rights under this Code. The Secretary of Labor and*
13 *Employment may seek the assistance of law enforcement agencies to ensure compliance*
14 *with this provision as well as with such orders as he/she may issue to enforce the same.*
15 *For purposes of this section, essential services shall mean hospital, water supply, and*
16 *electrical services, the lack of which would endanger life or public safety.*

17
18 *In line with the national concern for and the highest respect accorded to the rights of*
19 *patients to life and health, strikes and lockouts in hospitals, clinics and similar medical*
20 *institutions shall, to every extent possible, be avoided, and all serious efforts, not only by*
21 *labor and management but government as well, be exhausted to substantially minimize, if*
22 *not prevent, their adverse effects on such life and health, through the exercise, however*
23 *legitimate, by labor of its right to strike and by management to lockout. In labor disputes*
24 *adversely affecting the continued operation of such hospitals, clinics or medical*
25 *institutions, it shall be the duty of the striking union or locking out employer to provide*
26 *and maintain an effective skeletal workforce of medical and other health personnel,*
27 *whose movement and services shall be unhampered and unrestricted, as are necessary to*
28 *ensure the proper and adequate protection of the life and health of its patients, most*
29 *especially emergency causes, for the duration of the strike or lockout. In such cases,*
30 *therefore, the Secretary of Labor and Employment may immediately assume, within*
31 *twenty-four (24) hours from knowledge of the occurrence of such strike or lockout,*
32 *jurisdiction over the same. For this purpose, the contending parties are strictly enjoined*
33 *to comply with such orders, prohibitions and/or injunctions as are issued by the Secretary*
34 *of Labor, under the pain of immediate disciplinary action, including dismissal or loss of*
35 *employment or payment by the locking out employer of back wages and other benefits,*
36 *damages, administrative fines of not less than Five Thousand Pesos (P5,000.00) nor more*
37 *than Ten Thousand Pesos (P10,000.00) and other affirmative relief, including criminal*
38 *prosecution against either or both employers and employees.*

39
40 *The foregoing notwithstanding, the President of the Philippines shall not be precluded, at*
41 *any time, from assuming jurisdiction over any such labor dispute in order to settle or*
42 *terminate the same. The President's decision shall also be final and executory. (PM*
43 *proposed amendment in 12th Congress)*

44
45 **Article 322. PROHIBITED ACTIVITIES. –**

- 46
47 (a) No labor organization or employer shall declare strike or lockout without first having
48 bargained collectively in accordance with Title IV of this book or without first having
49 filed the notice required in the preceding article or without the necessary strike or

lockout vote first having been obtained and reported to the Secretary of the Department of Labor and Employment.

No strike or lockout shall be declared after assumption of jurisdiction by the President or the Secretary of the Department of Labor and Employment. Any worker whose employment has been terminated as a consequence of an unlawful labor lockout shall be entitled to reinstatement with full back wages. (PM proposal: italics incorporated to Art. 264 of LC)

- (b) No person shall obstruct, impede, or interfere with by force, violence, coercion, threats or intimidation any peaceful picketing by employees during any labor controversy or in the exercise of the right of self-organization or collective bargaining or shall aid or abet such obstruction or interference.
- (c) No employer shall use or employ any strikebreaker ***or scab*** nor shall any person be employed as a strikebreaker ***or scab***. (PM proposal)
- (d) No public official or employee, including officers and personnel of the Armed Forces of the Philippines or the Philippine National Police, or armed person, shall bring in, introduce or escort in any manner any individual who seeks to replace strikers in entering or leaving the premises of a strike area, or work in place of the strikers. The police force shall keep out of the picket lines unless actual violence or other criminal acts occur therein: Provided, That nothing herein shall be interpreted to prevent any public officer from taking any measure necessary to maintain peace and order, protect life and property, and/or enforce the law and legal order.
- (e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct thoroughfares.
- (f) ***It shall be unlawful for an employer to remove from or bring into business premises machines or other equipment used therein, raw materials in whatever form, finished and unfinished products, documents and other papers related to or connected with the employer's business, and any other item analogous to the foregoing.*** (PM proposed amendment in 12th Congress: italics incorporated to Art. 264 of LC)
- (g) ***Employees involved in a labor dispute shall have the right to inspect the employer's vehicle coming into or leaving the employer's premises to ensure that no act is being committed in violation of the immediately preceding paragraph, to frisk all outgoing personnel for the same purpose, and to prevent scabs from entering same premises: Provided, That these shall be undertaken by the employees in the presence of a representative of the employer: Provided, further, That there is a reasonable ground to believe that the same are being used for the purpose of violating the prohibition herein.*** (PM proposed amendment in 12th Congress: italics incorporated to Art. 264 of LC)
- (h) ***No such vehicle shall be allowed to enter into or exit from said premises, and no personnel shall be allowed to enter the same, if it is determined after inspection that an act prohibited herein is being committed, or who shall refuse inspection or frisking.*** (PM proposed amendment in 12th Congress: italics incorporated to Art. 264 of LC)

Article 323. **PENAL PROVISION.** – *Any violation of the enumerated prohibited acts under the preceding article shall be punished by imprisonment of not less than two (2) years nor more than four (4) years or fine of not less than one hundred thousand pesos (P100,000) nor more than two hundred thousand pesos (P200,000) or both such fine and imprisonment at the discretion of the Labor court.* (PM proposal)

Article 324. **REQUIREMENT FOR ARREST AND DETENTION.** – *Except in case of actual commission of crime, no union members or union organizers may be arrested or detained for union activities and other similar activities.* (PM proposal: formerly Art. 266 of LC)

CHAPTER II

ASSISTANCE TO LABOR ORGANIZATIONS

Article 325. **ASSISTANCE TO LABOR ORGANIZATIONS BY THE DEPARTMENT OF LABOR AND EMPLOYMENT.** – The Department of Labor and Employment, at the initiative of the Secretary of Labor and Employment, shall extend special assistance to the organization, for purposes of collective bargaining of the most underprivileged workers who, for reasons of occupation, organizational structure or insufficient incomes are not normally covered by major labor organizations or federations.

Article 326. **ASSISTANCE BY THE INSTITUTE FOR LABOR STUDIES.** – **[(Amended by Section 20 of Executive Order No. 126 as further amended by E.O. No. 251, Section 20 of E.O. No. 126, as amended by E.O. No. 251)]* **Institute for labor Studies.** - There is hereby created an Institute for Labor Studies, hereinafter referred to as the Institute, which shall be attached to the Department of Labor and Employment for policy and program coordination and administrative supervision. The Institute shall absorb the research and publication functions of the Institute of Labor and Manpower Studies which is hereby abolished in accordance with Section 19 (b) of this Executive order. The Institute to be headed by an Executive Director, assisted by a Deputy Executive Director, shall have the following functions:

- (a) Undertake research and studies in all areas of labor and manpower policy and administration;
- (b) Review the rationale of existing legislation and regulations and analyze the cost involved in the implementation of such legislation against the Benefits of such legislation against the benefits expected to be derived;
- (c) Study and develop innovative and indigenous approaches towards the promotion of harmonious labor-management relations, and the improvement of workers' welfare services;
- (d) Develop and undertake research programs and projects in collaboration with other national agencies to enhance the Department's capability to participate in national decision and policy making;
- (e) Enter into agreements with international or bilateral agencies for the carrying out of the foregoing functions;
- (f) Expand the scope of its research interests into other countries and regions;
- (g) Publish its research studies for dissemination to government as well as to all concerned parties;
- (h) Perform such other functions as may be provided by law or assigned by the Secretary.

CHAPTER III
FOREIGN ACTIVITIES

Article 327. PROHIBITION AGAINST ALIENS; EXCEPTIONS. – All aliens, natural or juridical, as well as Foreign organizations are strictly prohibited from engaging directly or indirectly in all forms of trade union activities without prejudice to normal contacts between Philippine labor unions and recognized international labor centers: Provided, however, That aliens working in the country with valid permits issued by the Department of Labor and Employment, may exercise the right to self-organization and join or assist labor organizations of their own choosing for purposes of collective Bargaining, Provided, further, That said aliens are nationals of a country which grants the same or similar rights to Filipino workers.

Article 328. FOREIGN ASSISTANCE. – (a) *Foreign individuals, organization or entity may give any donations, grants or other forms of assistance, in cash or other form of assistance, in cash or in kind, directly or indirectly to any labor organization, group of workers or any auxiliary thereof, such as cooperatives, credit unions and institution engaged in research, education or communication, in relation to trade union activities.* (PM proposal: deleted “No” before Foreign and “without prior permission by the Sec of Labor” of Art. 270 of LC)

“Trade union activities” shall mean:

- (1) Organization, formation and administration of labor organizations;
- (2) Negotiation and administration of collective bargaining agreements;
- (3) All forms of concerted union action;
- (4) Organizing, managing, or assisting union conventions, meetings, rallies, referenda, teach-ins, seminars, conferences and institutes;
- (5) Any form of participation or involvement in representation proceedings, representation elections, consent elections, union elections; and
- (6) Other activities or actions analogous to the foregoing.

(b) *Foreign donations, grants or other forms of assistance may be given directly or indirectly to support any activity or activities affecting trade unions.* (PM proposal)

Article 329. APPLICABILITY TO FARM TENANTS AND RURAL WORKERS. – The provisions of this Title pertaining to foreign organizations and activities shall be deemed applicable likewise to all organizations of farm tenants, rural workers and the like: Provided, That in appropriate cases the Secretary of Agrarian Reform shall exercise the powers and responsibilities vested by this Title in the Secretary of Labor and Employment.

TITLE VII
SPECIAL PROVISIONS

CHAPTER I
STUDY OF LABOR-MANAGEMENT RELATIONS

Article 330. STUDY OF LABOR-MANAGEMENT RELATIONS. – The Secretary of the Department of Labor and Employment shall have the power and it shall be his/her duty to inquire into:

- (a) The existing relations between employers and employees in the Philippines;
- (b) The growth of associations of employees and the effect of such associations upon employer-employee relations;
- (c) The extent and results of the methods of collective bargaining in the determination of terms and conditions of employment;
- (d) The methods which have been tried by employers and associations of employees for maintaining mutually satisfactory relations;
- (e) Desirable industrial practices which have been developed through collective bargaining and other voluntary arrangements;
- (f) The possible ways of increasing the usefulness and efficiency of collective bargaining for settling differences;
- (g) The possibilities for the adoption of practical and effective methods of labor management cooperation;
- (h) Any other aspects of employer-employee relations concerning the promotion of harmony and understanding between the parties; and
- (i) The relevance of labor laws and labor relations to national development.
- (j) The comprehensive study and effect of globalization and the flexibilization of labor as its consequential effect, particularly contractualization.

The Secretary of the Department of Labor and Employment shall also inquire into the causes of industrial unrest and take all the necessary steps within his/her power as may be prescribed by law to alleviate the same, and shall from time to time recommend the treatment of such remedial legislation as in his/her judgment may be desirable for the maintenance and promotion to achieve labor justice.

BOOK IV

POST-EMPLOYMENT

TITLE I

TERMINATION OF EMPLOYMENT

CHAPTER I

COVERAGE

Article 331. **COVERAGE.** – The provisions of this Title shall apply to all establishments or undertakings, whether for profit or not.

Article 332. **SECURITY OF TENURE.** – In cases of employment, the employer shall not terminate the services of an employee except for just cause or when authorized by this title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his/her full back wages, inclusive of allowances, and to his/her other benefits or their monetary equivalent computed from the time of his/her compensation was withheld from him/her up to the time of his/her actual reinstatement.

CHAPTER II

TERMINATION OF EMPLOYMENT

Article 333. TERMINATION OF EMPLOYMENT. – *No employer may terminate or dismiss an employee for any of the causes provided under Article 335 of this Code, unless upon decision of*

1 *the Labor Court rendering the dismissal and/or termination as valid or legal. Provided, that the*
2 *employer may choose to terminate an employee pending the decision of the Labor Court,*
3 *however, the latter shall be entitled to payroll reinstatement until the decision rendering the*
4 *termination as valid or legal.*

5
6 **Article 334. PREVENTIVE SUSPENSION.**—*The employer may place an employee under*
7 *preventive suspension if his/her continued employment poses a serious and imminent threat to*
8 *the life or property of the employer or of his/her co-workers. Provided, That no preventive*
9 *suspension shall last longer than thirty (3) days. The employer shall thereafter reinstate the*
10 *employee concerned in his/her former or in a substantially equivalent position provided that*
11 *during the period of extension, he/ she pays the wages and other benefits due to the employee.*
12 *Provided, further, That no employee shall be dismissed solely on the basis of previous offenses,*
13 *which the penalty of suspension has already been imposed.*

14
15 **Article 335. TERMINATION BY EMPLOYER.** – An employer may terminate an employment
16 for any of the following causes:

- 17
18 (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his
19 employer or representative in connection with his work;
20 (b) Gross and habitual neglect by the employee of his duties;
21 (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly
22 authorized representative;
23 (d) Commission of a crime or offense by the employee against the person of his employer or
24 any immediate member of his family or his duly authorized representative.
25

26 **Article 336 CLOSURE OF ESTABLISHMENT.** – In cases of termination due to closure on
27 account of business losses or financial reverses, the worker affected thereby shall be entitled to a
28 separation pay equivalent to at least *thirty (30) days pay for every year of service.* Closure or
29 cessation of operations of establishment or undertaking not due to serious business losses or
30 financial reverses, the separation pay shall be equal to *forty-five (45) days pay for every year of*
31 *service.* A fraction of at least six (6) months shall be considered as one (1) year. (PM proposal:
32 italics incorporated to Art. 283 of LC)
33

34 *The grant of separation pay under this Article shall be credited from the bond prescribed*
35 *under Article 276 of this Code, in case of bankruptcy, or when the employer runs-out of*
36 *properties or assets, or when the employer fails or refuses to pay.* (Pm proposal: italics
37 incorporated to Art. 283 of LC)
38

39 **Article 337. REDUCTION OF PERSONNEL.** – The employer may terminate the employment of
40 any employee due to labor saving devices, redundancy, retrenchment to prevent losses or the
41 closing or cessation of operation of the establishment or undertaking unless the closing is for the
42 purpose of circumventing the provisions of this Title, by serving a written notice on the worker and
43 the Secretary of the Department of Labor and Employment at least one (1) month before the
44 intended date thereof.
45

46 In cases of termination due to the installation of labor saving devices, redundancy or
47 retrenchment, the worker affected thereby shall be entitled to a separation pay equivalent to at least
48 *forty-five days pay for every year of service.* A fraction of at least six (6) months shall be
49 considered as one (1) whole year. (PM proposal: italics incorporated to Art. 283 of LC)
50

Article 338. **DISEASE AS GROUND FOR TERMINATION.** – If the employee suffers from a disease and his/her continued employment is prohibited by law or prejudicial to his/her health or to the health of his/her co-employees, the employer shall not terminate his/her employment unless there is a certification by a competent public health authority that the disease is of such nature and at a stage that it cannot be cured within the period of six (6) months even with proper medical treatments. In case of work-related diseases, the employee is entitled to separation pay equivalent to at least *sixty (60) days pay for every year of service or thirty (30) days pay for every year of service in case of non-work related disease.* (PM proposal: italics incorporated to Art. 284 of LC)

Article 339. **PROCEDURE OF DUE PROCESS.** – *Subject to the constitutional rights to security of tenure, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself/ herself. The burden of proving that the termination was for valid or authorized cause rest upon the employer.* (PM proposal)

Article 340. **TERMINATION BY EMPLOYEE.** –

- (a) An employee may terminate without just cause the employee-employer relationship by serving a written notice on the employer at least one (1) month in advance. The employer upon whom no such notice was served may hold the employee liable for damages.
- (b) An employee may put an end to the relationship without serving any notice on the employer for any of the following just causes:
 - i. Serious insult by the employer or his representative on the honor and person of the employee;
 - ii. Inhuman and unbearable treatment accorded the employee by the employer or his representative; and
 - iii. Commission of a crime or offense by the employer or his representative against the person of the employee or any of the immediate members of his family.
- c) Gratuity pay – at least one year, ½ month per year of service unless provided by CBA and company policies/practice

Article 341. **WHEN EMPLOYMENT NOT DEEMED TERMINATED.** – The bona fide suspension of the operation of a business or undertaking for a period not exceeding six (6) months, or the fulfillment by the employee of a military for civic duty shall not terminate employment. In all such cases, the employer shall reinstate the employee to his former position without loss of seniority rights if he indicates his desire to resume his work not later than one (1) month from the resumption of operations of his employer or from his relief from the military or civic duty.

Temporary lay-off under this Article shall not last for more than six (6) months. After six (6) months, the employee should be reinstated following the requirement of the law, failure to comply would be tantamount to dismissing the employee concerned and the employer shall be liable for dismissal. (PM proposal: italics incorporated to Art. 286 of LC-- basis Sebuguero case G.R. Nos. 82823-24, 27 September 1995)

1 **Article 342. PENAL PROVISION.** – *Any termination or dismissal based on just or authorized*
2 *causes found to be illegal or unjust shall be punishable by imprisonment of not less than six (6)*
3 *years and one day nor more than eight (8) years.* (PM proposal)
4

5
6 **TITLE II**
7 **RETIREMENT FROM SERVICE**
8

9 **CHAPTER I**
10 **RETIREMENT**
11

12 **Article 343. RETIREMENT AGE AND LENGTH OF SERVICE, BENEFITS AND**
13 **EXEMPTIONS.** – Any employee may be retired upon reaching the retirement age established in
14 the collective bargaining agreement or other applicable employment contract.
15

16 In case of retirement, the employee shall be entitled to receive such retirement benefits as he
17 may have earned under existing laws and any collective bargaining agreement and other
18 agreements: Provided, however, That an employee's retirement benefits under any collective
19 bargaining and other agreements shall not be less than those provided herein. (R.A. NO. 7641)
20

21 In the absence of a retirement plan or agreement providing for retirement benefits of
22 employees in the establishment, an employee upon reaching the age of ***fifty (50) years*** or more, but
23 not beyond sixty five (65) years, which is hereby declared as compulsory retirement age, who has
24 served at least five years in the said establishment may retire and shall be entitled to retirement pay
25 equivalent to at least ***one (1) month salary*** for every year of service, a fraction of at least six months
26 shall be considered as one (1) whole year. (PM proposal: italics incorporated to Art. 287 of LC)
27

28 ***Unless parties provide for broader inclusions the term “one month salary” shall mean***
29 ***thirty (30) days plus one-twelfth (1/12) of the thirteenth month pay and the cash equivalent of at***
30 ***least ten (10) days sick leave and ten days vacation leave.*** (PM proposal: italics incorporated to
31 Art. 287 of LC)
32

33 ***An underground mining employee upon reaching the age of fifty (50) years or more but***
34 ***not beyond sixty (60) years which is hereby declared the compulsory retirement age for***
35 ***underground mine workers, who has served at least five (5) years as underground mine worker,***
36 ***may retire and shall be entitled to all the retirement benefits provided for in this Article.*** (R.A. No.
37 8558: italics incorporated to Art. 287 of LC)
38

39 ***Retail, service and agricultural establishments or operations shall not be exempted from***
40 ***the coverage of this provision regardless of the number of employees.*** (PM proposal: italics
41 incorporated to Art. 287 of LC)
42

43 **Article 344. PENAL PROVISIONS.** – *Violation of any of the provisions under the preceding*
44 *article is hereby declared unlawful and shall be punished by imprisonment of not less than two*
45 *(2) years nor more than four (4) years, or a fine of not less than (P50,000) nor more than one*
46 *hundred thousand pesos (P100,000), or both such fine and imprisonment at the discretion of the*
47 *labor court. Imprisonment or fine shall not preclude the employer from paying the retirement*
48 *benefit of the employee.*
49

For purposes of this Article the term “employer” shall mean owner, president, vice-president, manager, director and all other responsible officers of the establishment. (PM proposal)

TITLE III
PRESCRIPTION OF OFFENSES AND CLAIMS

CHAPTER I
PRESCRIPTION OF OFFENSES AND CLAIMS

Article 345. **OFFENSES.** – Offenses penalized under this Code and the rules and regulations issued pursuant thereto shall prescribe in *five (5) years*.

All unfair labor practices arising from **Title V** shall be filed with the appropriate court within five (5) years from the accrued of such unfair labor practice, otherwise they shall be forever barred.

Article 346. **MONEY CLAIMS.** – *All money claims arising from employer-employee relations accruing during or prior to the effectivity of this Code shall be filed within five (5) years from the time the cause of action accrued.* (PM proposal: formerly Art. 291 of LC)

BOOK V
TRANSITORY AND FINAL PROVISIONS

Article 347. **APPLICATION OF LAW ENACTED PRIOR TO THIS CODE.** – All actions or claims accruing prior to the effectivity of this Code shall be determined in accordance with the laws in force at the time of their accrual.

Article 348. **IMPLEMENTING RULES AND REGULATIONS.** – The Department of Labor and employment *in consultation with representatives of the Committee on Labor and Employment of Congress and together with representatives of all legitimate labor organizations or federations* and other government agencies charged with the administration and enforcement of this code or any of its parts, shall promulgate the necessary implementing rules and regulations. Such rules and regulations shall become effective fifteen (15) days after announcement of their adoption in two (2) newspapers of general circulation. (PM proposal)

Article 349. **SEPARABILITY CLAUSE** – If any provision or part of this Code or the application thereof to any person or circumstance, is held invalid, the remainder of this Code or the application of such provision or part to other persons or circumstances shall not be affected thereby.

Article 350. **REPEALING CLAUSE.** – All labor laws not adopted as part of this Code either directly or by reference are hereby repealed. All provisions of existing laws, orders, decrees, rules and regulations inconsistent herewith are likewise repealed and/or amended.

Article 351. **DATE OF EFFECTIVITY.** – This code shall take effect fifteen (15) days after its publication in the Official Gazette.

APPROVED.