

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Twentieth Congress
First Regular Session

HOUSE BILL NO. 4618



INTRODUCED BY REPRESENTATIVES EMIGDIO "DINO" P. TANJUATCO III, ANNA VICTORIA VELOSO-TUAZON, ALFREDO A. GARBIN, JR., WALFREDO "ARMAN" R. DIMAGUILA, JR., YSABEL MARIA J. ZAMORA, KEITH MICAH "ATTY. MIKE D.L. TAN, KING GEORGE LEANDRO ANTONIO V. COLLANTES, ATTY. DANILO "DANNY" A. DOMINGO, EDUARDO R. RAMA, JR., PATRICK MICHAEL D. VARGAS, FLORABEL C. YATCO, and GERALD CLOYD ALEXIS V. GALANG

EXPLANATORY NOTE

The Labor Code of the Philippines, Presidential Decree No. 442, was enacted in 1974 during a different socio-economic and political context. Over the past five decades, the nation has experienced significant transformations brought about by globalization, technological advancement, demographic shifts, and evolving international labor standards. Consequently, many of the provisions of the present Code have become outdated, fragmented by numerous amendments, and inconsistent with modern realities of work.

The proposed Revised Labor Code of the Philippines seeks to codify, harmonize, and update the laws governing employment relations to reflect present-day realities and future challenges of the world of work. It strengthens the constitutional mandate to afford full protection to labor—local and overseas, organized and unorganized—and to promote industrial peace based on social justice.

This measure introduces provisions that:

1. Uphold equality and non-discrimination by explicitly prohibiting distinctions based on sex, gender identity and expression, sexual orientation, disability, age, political belief, social origin, or other status, consistent with international conventions to which the Philippines is a party.
2. Protect migrant workers and promote decent work by regulating recruitment and placement practices, ensuring safeguards against illegal recruitment, strengthening the regulation of foreign employers, and aligning labor migration policies with national development goals.

3. Modernize employment relations by clarifying rules on part-time work, contractual arrangements, flexible work setups, and by incorporating gender-sensitive standards in the workplace.

4. Strengthen labor rights including the right to self-organization, collective bargaining and negotiations, peaceful concerted activities, security of tenure, just and humane conditions of work, a living wage, and participation in policy and decision-making processes affecting workers.


5. Enhance enforcement mechanisms by reinforcing the visitorial and regulatory powers of the Department of Labor and Employment and the Department of Migrant Workers, rationalizing penalties for violations, and expanding remedies available to workers.

6. Promote human resource development through improved apprenticeship and training programs, protection of special workers, and alignment of labor market policies with national human resource needs.

7. Ensure balance between labor rights and business sustainability by recognizing the principle of shared responsibility, encouraging voluntary modes of dispute settlement, and ensuring that labor policies contribute to productivity, competitiveness, and inclusive growth.

In sum, the Revised Labor Code consolidates decades of jurisprudence, international standards, and legislative reforms into a comprehensive legal framework that responds to the modern and future needs of Filipino workers and employers. It envisions a just, inclusive, and dynamic labor system where economic growth and social justice are mutually reinforcing.

Approval of this bill is therefore earnestly sought.


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FLORABEL C. YATCO

Republic of the Philippines
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HOUSE BILL NO. 4613

INTRODUCED BY REPRESENTATIVES EMIGDIO "DINO" P. TANJUATCO III, ANNA VICTORIA VELOSO-TUAZON, ALFREDO A. GARBIN, JR., WALFREDO "ARMAN" R. DIMAGUILA, JR., YSABEL MARIA J. ZAMORA, KEITH MICAH "ATTY. MIKE D.L. TAN, KING GEORGE LEANDRO ANTONIO V. COLLANTES, ATTY. DANILO "DANNY" A. DOMINGO, EDUARDO R. RAMA, JR., PATRICK MICHAEL D. VARGAS, FLORABEL C. YATCO, and GERALD CLOYD ALEXIS V. GALANG

AN ACT
PROVIDING FOR THE REVISED LABOR CODE OF THE PHILIPPINES

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

PRELIMINARY TITLE
Chapter I
GENERAL PROVISIONS

Art. 1. Name of the Code. This Code shall be known as the "REVISED Labor Code of the Philippines". (1)

Art. 2. Date of Effectivity. This Code shall take effect six (6) months after its ~~promulgation~~—PUBLICATION IN TWO (2) NEWSPAPERS OF GENERAL CIRCULATION. (2)

Art. 3. Declaration of Basic Policy. The State shall afford FULL protection to labor, LOCAL AND OVERSEAS, ORGANIZED AND UNORGANIZED, and promote full employment, ~~ensure equal work opportunities regardless of sex, race or creed and~~

~~regulate the relations between workers and employers~~ AND EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR ALL.

~~The State~~ IT shall ~~assure~~ 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, ~~and just and~~ humane conditions of work, AND A LIVING WAGE. THEY SHALL ALSO PARTICIPATE IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS AND BENEFITS AS MAY BE PROVIDED BY LAW.

THE STATE SHALL PROMOTE THE PRINCIPLE OF SHARED RESPONSIBILITY BETWEEN WORKERS AND EMPLOYERS AND THE PREFERENTIAL USE OF VOLUNTARY MODES IN SETTLING DISPUTES, INCLUDING CONCILIATION, AND SHALL ENFORCE THEIR MUTUAL COMPLIANCE THEREWITH TO FOSTER INDUSTRIAL PEACE.

THE STATE SHALL REGULATE THE RELATIONS BETWEEN WORKERS AND EMPLOYERS, RECOGNIZING THE RIGHT OF LABOR TO SHARE IN THE FRUITS OF PRODUCTION AND ENTERPRISES, TO PROFITS, EXPANSION AND GROWTH. (3a)

Art. 4. Construction in Favor of Labor. All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations AS WELL AS IN LABOR CONTRACTS, shall be resolved in favor of labor. (4a)

Art. 5. Rules and Regulations. The Department of Labor AND EMPLOYMENT (DOLE) 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 AND AFTER COMPLYING WITH THE FILING REQUIREMENT WITH THE OFFICE OF THE NATIONAL ADMINISTRATIVE REGISTER; OTHERWISE, THE RULES CANNOT BECOME THE BASIS OF ANY SANCTION AGAINST ANY PARTY OR PERSONS. (5a)

Art. 6. Applicability. All rights and benefits granted to workers under this Code shall, except as may otherwise be provided herein, apply alike to all workers, whether agricultural or non-agricultural. (6) (As amended by Presidential Decree No. 570-A, November 1, 1974)

Chapter II

~~EMANCIPATION OF TENANTS EQUALITY AND NON-DISCRIMINATION~~

ART. 7. DISCRIMINATION.

- (1) THE STATE SHALL PURSUE A NATIONAL POLICY DESIGNED TO PROMOTE, BY METHODS APPROPRIATE TO NATIONAL CONDITIONS AND PRACTICE, EQUALITY OF OPPORTUNITY AND TREATMENT IN RESPECT OF EMPLOYMENT AND OCCUPATION, WITH A VIEW TO ELIMINATING ANY DISCRIMINATION IN RESPECT THEREOF.
- (2) FOR THE PURPOSE OF THIS CODE THE TERM DISCRIMINATION INCLUDES—
 - (a) ANY DISTINCTION, EXCLUSION OR PREFERENCE MADE ON THE BASIS OF RACE, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION, SEX CHARACTERISTICS, MARITAL STATUS, AGE, DISABILITY, LANGUAGE, RELIGION, POLITICAL OPINION AND PERSUASION, NATIONAL EXTRACTION OR SOCIAL ORIGIN, PROPERTY, BIRTH, OR OTHER STATUS, WHICH HAS THE EFFECT OF NULLIFYING OR IMPAIRING EQUALITY OF OPPORTUNITY OR TREATMENT IN EMPLOYMENT OR OCCUPATION;
 - (b) SUCH OTHER DISTINCTION, EXCLUSION OR PREFERENCE WHICH HAS THE EFFECT OF NULLIFYING OR IMPAIRING EQUALITY OF OPPORTUNITY OR TREATMENT IN EMPLOYMENT OR OCCUPATION AS MAY BE DETERMINED BY THE MEMBER CONCERNED AFTER CONSULTATION WITH REPRESENTATIVE EMPLOYERS' AND WORKERS' ORGANIZATIONS, WHERE SUCH EXIST, AND WITH OTHER APPROPRIATE BODIES.

- (3) ANY DISTINCTION, EXCLUSION OR PREFERENCE IN RESPECT OF A PARTICULAR JOB BASED ON THE INHERENT REQUIREMENTS SHALL NOT BE DEEMED TO BE DISCRIMINATION.

FOR THE PURPOSE OF THIS CODE, THE TERMS EMPLOYMENT AND OCCUPATION INCLUDE ACCESS TO VOCATIONAL TRAINING, ACCESS TO EMPLOYMENT AND TO PARTICULAR OCCUPATIONS, AND TERMS AND CONDITIONS OF EMPLOYMENT. (new)

Art. 8. Discrimination Prohibited. It shall be unlawful for any employerS to discriminate against ~~any woman~~ employeeS with respect to terms and conditions of employment solely on account of ~~her~~ THEIR RACE, COLOR, sex, GENDER IDENTITY AND EXPRESSION, SEX CHARACTERISTICS, SEXUAL ORIENTATION, MARITAL STATUS, AGE, DISABILITY, LANGUAGE, RELIGION, POLITICAL OPINION AND PERSUASION, NATIONAL EXTRACTION OR SOCIAL ORIGIN, PROPERTY, BIRTH, OR OTHER STATUS.

The following are acts of discrimination IF DONE ON THE BASIS OF THE CRITERIA IN THE FIRST PARAGRAPH:

- (a) ADVERTISEMENTS OR QUALIFICATION STANDARDS SHOWING DISTINCTION, EXCLUSION OR PREFERENCE, WITH REGARD TO A PARTICULAR JOB NOT BASED ON THE INHERENT REQUIREMENTS OF THE SAID JOB;
- (b) UTILIZING STANDARDS, CRITERIA, OR METHODS OF ADMINISTRATION THAT: 1) HAVE THE EFFECT OF DISCRIMINATION; OR 2) PERPETUATE THE DISCRIMINATION OF OTHERS WHO ARE SUBJECT TO COMMON ADMINISTRATIVE CONTROL;
- (c) ~~(a)~~ Payment of a lesser compensation, including wage, salary or other form of remuneration and fringe benefits, ~~to a female employee as against a male employee,~~ for work of equal value; and
- (d) ~~(b) Favoring~~ DISTINGUISHING, EXCLUDING OR PREFERRING ~~a male employeeS over a female employee~~ WITH RESPECT TO PROMOTION, with

respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes.

Criminal liability for the willful commission of any unlawful act as provided in this article or any violation of the rules and regulations issued pursuant to ~~Section 2~~ hereof ARTICLE 5 shall be penalized as provided in Articles ~~288~~-312 and ~~289~~-313 of this Code: *Provided*, That the institution of any criminal action under this provision shall not bar the aggrieved employeeS from filing an entirely separate and distinct action for money claims, which may include claims for damages and other affirmative reliefs. The actions hereby authorized shall proceed independently of each other. (135a)

Art. 9. Stipulation Against Marriage. It shall be unlawful for an employerS to require as a condition of employment or continuation of employment that a ~~woman~~ employeeS shall not get married, or to stipulate expressly or tacitly that upon getting married, a ~~woman~~ employeeS shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a ~~woman~~ employeeS merely by reason of ~~her~~ THEIR marriage. (134a)

Art. 10. Classification of Certain Women Workers. ~~Any woman~~ EMPLOYEES who is ARE permitted or suffered to work, with or without compensation, in any night club, BAR, cocktail lounge, massage clinic, ~~bar~~, or similar establishments under the effective control or supervision of the employerS for a substantial period of time as determined by the Secretary of Labor and Employment (SOLE), shall be considered as an employeeS of such establishment for purposes of labor and social legislation. (136a)

BOOK ONE

PRE-EMPLOYMENT

Title I

RECRUITMENT AND PLACEMENT OF WORKERS

CHAPTER I

GENERAL PROVISIONS

Art. 11. Statement of Objectives. CONSISTENT WITH THE NATIONAL INTEREST AND BINDING INTERNATIONAL COMMITMENTS, it is the policy of the State TO:

- (A) PURSUE AS A MAJOR GOAL, AN ACTIVE POLICY DESIGNED TO PROMOTE FULL, PRODUCTIVE AND FREELY CHOSEN EMPLOYMENT WITH A VIEW TO STIMULATING ECONOMIC GROWTH AND DEVELOPMENT, RAISING STANDARDS OF LIVING, MEETING HUMAN RESOURCE REQUIREMENTS AND OVERCOMING UNEMPLOYMENT AND UNDEREMPLOYMENT;
- ~~a. To~~ (B) Promote and maintain a state of full employment through improved ~~manpower~~ HUMAN RESOURCE training, allocation and utilization, CONSISTENT WITH HUMAN RIGHTS COMMITMENTS, INCLUDING THE PROMOTION OF GENDER EQUALITY;
- ~~b. To~~ (C) Protect ~~every citizen~~ THE RIGHTS AND DIGNITY OF CITIZENS desiring to work locally or overseas, ORGANIZED OR UNORGANIZED, by securing for ~~him~~ THEM the best possible terms and conditions of employment;
- ~~c. To~~ (D) Facilitate a free choice of available employment by persons seeking work in conformity with the national interest;
- ~~d. To facilitate and regulate the movement of workers in conformity with the national interest;~~
- ~~e. To regulate the employment of aliens, including the establishment of a registration and/or work permit system;~~
- ~~f. To~~ (E) Strengthen the network of public employment offices and ~~rationalize~~ the participation of the private sector in the recruitment and placement of workers, locally and overseas, ~~to serve national development objectives;~~
- ~~g. To~~ (F) Insure careful selection of Filipino workers for overseas employment ~~in order to protect the good name of the Philippines abroad;~~
- (G) CONTINUOUSLY CREATE LOCAL EMPLOYMENT OPPORTUNITIES AND PROMOTE THE EQUITABLE DISTRIBUTION OF WEALTH AND THE BENEFITS OF DEVELOPMENT AS A MEANS TO SUSTAIN ECONOMIC GROWTH AND ACHIEVE NATIONAL DEVELOPMENT WHILE RECOGNIZING THE SIGNIFICANT CONTRIBUTION OF FILIPINO MIGRANT WORKERS TO THE NATIONAL ECONOMY

THROUGH THEIR FOREIGN EXCHANGE REMITTANCES. THE OVERSEAS EMPLOYMENT PROGRAM SHOULD REST ON THE ASSURANCE THAT THE DIGNITY AND FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS OF FILIPINO CITIZENS SHALL NOT, AT ANY TIME, BE COMPROMISED OR VIOLATED; AND

- (H) APPLY GENDER-SENSITIVE CRITERIA IN THE FORMULATION AND IMPLEMENTATION OF POLICIES AND PROGRAMS AFFECTING WORKERS. (12a)

Art. 12. Definitions. AS USED IN THIS BOOK, THESE TERMS SHALL BE DEFINED AS FOLLOWS:

- (a) *“Worker”* means any member of the labor force, whether employed or unemployed.
- (b) *“Authority”* means a document issued by the ~~Department of Labor~~ DOLE authorizing a person or association to engage in recruitment and placement activities as a private recruitment entity.
- (c) *“License”* means a document issued by the ~~Department of Labor~~ DOLE authorizing a person or entity to operate a private employment agency.
- (d) *“Private fee-charging employment agency”* means any person or entity engaged in recruitment and placement of workers for a fee which is charged, directly or indirectly, from the workers or employers or both.
- (e) *“Private recruitment entity”* means any person or association engaged in the recruitment and placement of workers, locally or overseas, without charging, directly or indirectly, any fee from the workers or employers.
- (f) *“Recruitment and placement”* refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract 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.~~ WHEN ANY PERSON OR ENTITY, IN ANY MANNER, OFFERS OR PROMISES FOR A FEE, EMPLOYMENT TO TWO OR MORE PERSONS, A PRESUMPTION IS

CREATED THAT THE PERSON IS ENGAGED IN RECRUITMENT AND PLACEMENT.

~~g. "Seaman" means any person employed in a vessel engaged in maritime navigation.~~

~~h. "Overseas employment" means employment of a worker outside the Philippines.~~

~~i. "Emigrant" means any person, worker or otherwise, who emigrates to a foreign country by virtue of an immigrant visa or resident permit or its equivalent in the country of destination.~~

(G) "*MIGRANT WORKERS*" REFERS TO FILIPINOS WHO ARE TO BE ENGAGED, ARE ENGAGED OR HAVE BEEN ENGAGED IN A REMUNERATED ACTIVITY IN A STATE OF WHICH THEY ARE NOT CITIZENS OR ON BOARD A VESSEL NAVIGATING THE FOREIGN SEAS OTHER THAN A GOVERNMENT SHIP USED FOR MILITARY OR NON-COMMERCIAL PURPOSES OR ON AN INSTALLATION LOCATED OFFSHORE OR ON THE HIGH SEAS. A "*PERSON TO BE ENGAGED IN A REMUNERATED ACTIVITY*" REFERS TO AN APPLICANT WORKER WHO HAS BEEN PROMISED OR ASSURED EMPLOYMENT OVERSEAS.

(H) "*GENDER EQUALITY*" REFERS TO THE PRINCIPLE ASSERTING THE EQUALITY OF EVERYONE REGARDLESS OF GENDER AND THEIR RIGHT TO ENJOY EQUAL CONDITIONS REALIZING THEIR FULL HUMAN POTENTIALS TO CONTRIBUTE TO AND BENEFIT FROM THE RESULTS OF DEVELOPMENT AND WITH THE STATE RECOGNIZING THAT ALL HUMAN BEINGS ARE FREE AND EQUAL IN DIGNITY AND RIGHTS.

(I) "*GENDER-SENSITIVE*" IS THE STATE OF KNOWING HOW SOCIAL CONSTRUCTIONS NORMALIZE BIASES AND MARGINALIZATION ON THE BASIS OF GENDER AND BEING ABLE TO ACT WITHOUT BIASES AND EXHIBIT RESPECT FOR EACH AND EVERY PERSON REGARDLESS OF GENDER. IT IS RECOGNIZING THE INEQUALITIES AND INEQUITIES PREVALENT IN SOCIETY BETWEEN WOMEN AND MEN AND COMMITTING TO ADDRESS GENDER ISSUES. (13a)

Art. 13. Employment Promotion. The ~~Secretary of Labor~~ SOLE shall have the power and authority:

- (a) To organize and establish new employment offices in addition to the existing employment offices under the ~~Department of Labor~~ DOLE as the need arises;
 - (b) To organize and establish a nationwide job clearance and 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;
 - (c) To develop and organize a program that will facilitate occupational, industrial and geographical mobility of labor and provide assistance in the relocation of workers from one area to another; and
 - (d) To require any person, establishment, organization or institution to submit such employment information as may be prescribed by the ~~Secretary of Labor~~ SOLE.
- (14a)

Art. 14. Private Recruitment. Except as provided in Chapter II of this Title, no person or entity other than the public employment offices, shall engage in the recruitment and placement of workers. (16)

CHAPTER II

REGULATION ~~OF~~ ON RECRUITMENT AND PLACEMENT ACTIVITIES

Art. 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 Labor~~ SOLE AND THE SECRETARY OF THE DEPARTMENT OF MIGRANT WORKERS (DMW) FOR OVERSEAS EMPLOYMENT, RESPECTIVELY. (25a)

Art. 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. (26)

ART. 17. PROHIBITION ON OFFICIALS AND EMPLOYEES. OFFICIALS OR EMPLOYEES OF THE GOVERNMENT, ITS BRANCHES, SUBDIVISIONS, INSTRUMENTALITIES, AND AGENCIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS OR THEIR RELATIVES, WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY ARE PROHIBITED FROM ENGAGING, DIRECTLY OR INDIRECTLY, IN RECRUITMENT AND PLACEMENT OF WORKERS FOR OVERSEAS EMPLOYMENT WHETHER FOR PROFIT OR NOT. THE PENALTIES SHALL BE IMPOSED UPON THEM. (new)

Art. 18. Citizenship Requirement. Only Filipino citizens or corporations, partnerships or entities at least seventy-five percent (75%) of the authorized and voting 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. (27)

Art. 19. Capitalization. All applicants for authority to hire or renewal of license to recruit are required to have ~~such-substantial~~ AUTHORIZED capitalization as ~~determined by the Secretary of Labor~~ FOLLOWS:

- (1) FOR OVERSEAS RECRUITMENT AND PLACEMENT, A MINIMUM NET WORTH OF TWELVE MILLION PESOS (P12,000,000.00) IN THE CASE OF SINGLE PROPRIETORSHIPS, AND A FULLY PAID-UP CAPITAL OR NET WORTH OF TWELVE MILLION PESOS (P12,000,000.00) IN THE CASE OF PARTNERSHIPS OR CORPORATIONS; AND
- (2) FOR LOCAL RECRUITMENT AND PLACEMENT, A MINIMUM NET WORTH OF THREE MILLION PESOS (P3,000,000.00) IN THE CASE OF SINGLE PROPRIETORSHIPS, AND A FULLY PAID-UP CAPITAL OR NET WORTH OF THREE MILLION PESOS (P3,000,000.00) IN THE CASE OF PARTNERSHIPS OR CORPORATIONS. (28a)

Art. 20. Non-Transferability of License or Authority. No license or authority shall be used directly or indirectly by ~~any personS~~ other than ~~the one~~ THOSE in whose favor it was issued or at any place other than that stated in the 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~~DOLE, OR DMW, RESPECTIVELY. (29a)

Art. 21. Registration Fees. The ~~Secretary of Labor~~SOLE OR DMW SECRETARY shall promulgate a schedule of fees for the registration of all applicants for license or authority. (30a)

Art. 22. Bonds. ~~All applicants for license or authority shall post such cash and surety bonds as determined by the Secretary of Labor~~ To guarantee compliance with prescribed recruitment procedures, rules and regulations, and terms and conditions of employment as ~~may be appropriate~~, ALL APPLICANTS FOR LICENSE OR AUTHORITY SHALL POST SUCH CASH AND SURETY BONDS AS DETERMINED BY THE SECRETARY OF LABOR FOLLOWS:

- (1) FOR OVERSEAS RECRUITMENT AND PLACEMENT, THE AMOUNT OF TWELVE MILLION PESOS (P12,000,000.00) FOR SINGLE PROPRIETORSHIPS, PARTNERSHIPS OR CORPORATIONS; AND
- (2) FOR LOCAL RECRUITMENT AND PLACEMENT, THE AMOUNT OF THREE MILLION PESOS (P3,000,000.00) FOR SINGLE PROPRIETORSHIPS, PARTNERSHIPS OR CORPORATIONS. (31a)

Art. 23. NO Fees to be Paid by Workers. NO FEE OR CHARGE SHALL BE REQUIRED FROM any personS applying with a ~~private fee charging~~ employment agency AGENCIES for employment assistance ~~shall not be charged any fee until he has obtained employment through its efforts or has actually commenced employment.~~ Such fee shall be always covered with the appropriate receipt clearly showing the amount paid. The ~~Secretary of Labor~~ shall promulgate a schedule of allowable fees. (32a)

Art. 24. Mandatory Remittance of Earnings. It shall be mandatory for all Filipino workers ~~abroad~~ RECRUITED AND PLACED BY PRIVATE FEE-CHARGING EMPLOYMENT AGENCIES OR PRIVATE RECRUITMENT ENTITIES FOR LOCAL OR OVERSEAS EMPLOYMENT, to remit a portion of their ~~foreign~~

~~exchange~~ earnings to their LEGITIMATE families, dependents, and/or beneficiaries in the country in accordance with rules and regulations prescribed by the ~~Secretary of Labor~~ SOLE, OR DMW SECRETARY, RESPECTIVELY. (22a)

Art. 25. Reports on Employment Status. ~~Whenever the public interest requires,~~ The ~~Secretary of Labor~~ SOLE OR DMW SECRETARY ~~may~~ SHALL direct all persons or entities within the coverage of this Title to submit a report on the status of employment, including job vacancies, details of job requisitions, separation from jobs, wages, other terms and conditions and other employment data. (33a)

CHAPTER III

LOCAL RECRUITMENT AND EMPLOYMENT

Art. 26. Bureau of LOCAL Employment Services. (a) The Bureau of LOCAL Employment Services shall be primarily responsible for developing and monitoring a comprehensive LOCAL employment program. It shall have the power and duty TO:

- (1) ~~To~~ Formulate and develop plans and programs to implement the employment promotion objectives of this Title;
- (2) ~~To establish and maintain a registration and/or licensing system to regulate private sector participation in the recruitment and placement of workers, locally and overseas, and to secure the best possible terms and conditions of employment for Filipino contract workers and compliance therewith under such rules and regulations as may be issued by the Minister of Labor;~~
- (2) ESTABLISH AND ADMINISTER A MACHINERY FOR THE EFFECTIVE ALLOCATION OF HUMAN RESOURCES FOR MAXIMUM EMPLOYMENT AND PLACEMENT;
- (3) ~~(6) to~~ Develop AND MAINTAIN a responsive vocational guidance and testing system in aid of proper human resources allocation; and
- (4) REGULATE AND SUPERVISE PRIVATE SECTOR PARTICIPATION IN THE RECRUITMENT AND PLACEMENT OF WORKERS LOCALLY UNDER SUCH RULES AND REGULATIONS AS MAY BE ISSUED BY THE SOLE;

- (5) ~~(4)~~ To Establish and maintain a registration and/or work permit system to REASONABLY regulate the employment of aliens NON-RESIDENT FOREIGN NATIONALS SUBJECT TO THE PRINCIPLE OF RECIPROCITY;
- (6) ~~(5)~~ To Develop AND MAINTAIN a labor market information system in aid of proper manpower HUMAN RESOURCE and development planning;
- ~~(7) To maintain a central registry of skills, except seamen.~~
- (7) ~~(3)~~ To Formulate and develop employment programs designed to benefit disadvantaged groups and communities; AND
- (8) PERFORM OTHER FUNCTIONS AS MAY BE PROVIDED BY LAW.

~~(b) The regional offices of the Ministry of Labor shall have the original and exclusive jurisdiction over all matters or cases involving employer-employee relations including money claims, arising out of or by virtue of any law or contracts involving Filipino workers for overseas employment except seamen: Provided, That the Bureau of Employment Services may, in the case of the National Capital Region, exercise such power, whenever the Minister of Labor deems it appropriate. The decisions of the regional offices of the Bureau of Employment Services, if so authorized by the Minister of Labor as provided in this Article, shall be appealable to the National Labor Relations Commission upon the same grounds provided in Article 223 hereof. The decisions of the National Labor Relations Commission shall be final and inappealable. (Superseded by Exec. Order 797, May 1, 1982).~~

~~(e) (b) The Minister of Labor SOLE shall have the power to impose and collect fees based on rates recommended by the Bureau of LOCAL Employment Services. Such fees shall be deposited in the National Treasury as a special account of the General Fund, for the promotion of the objectives of the Bureau of LOCAL Employment Services, subject to the provisions of Section 40 of Presidential Decree No. 1177. (15a)~~

ART. 27. PUBLIC EMPLOYMENT SERVICE OFFICE. TO CARRY OUT THE DECLARED POLICY TO PROVIDE FULL EMPLOYMENT AND EQUALITY OF EMPLOYMENT OPPORTUNITIES FOR ALL, AND FOR THIS PURPOSE, TO STRENGTHEN AND EXPAND THE EXISTING EMPLOYMENT FACILITATION SERVICE MACHINERY OF THE GOVERNMENT, PARTICULARLY AT THE LOCAL LEVELS, THERE SHALL BE ESTABLISHED IN ALL CAPITAL TOWNS

AND/OR SEATS OF GOVERNMENT OF PROVINCES, KEY CITIES, AND OTHER STRATEGIC AREAS A PUBLIC EMPLOYMENT SERVICE OFFICE, HEREINAFTER REFERRED TO AS “PESO”, WHICH SHALL BE COMMUNITY-BASED AND MAINTAINED LARGELY BY LOCAL GOVERNMENT UNITS (LGUS) AND A NUMBER OF NON-GOVERNMENTAL ORGANIZATIONS (NGOS) OR COMMUNITY-BASED ORGANIZATIONS (CBOS) AND STATE UNIVERSITIES AND COLLEGES (SUCS), IN ACCORDANCE WITH REPUBLIC ACT NO. 8759. THE PESOS SHALL BE LINKED TO THE REGIONAL OFFICES OF THE DOLE FOR COORDINATION AND TECHNICAL SUPERVISION, AND TO THE DOLE CENTRAL OFFICE, TO CONSTITUTE THE NATIONAL EMPLOYMENT SERVICE NETWORK. (new)

CHAPTER IV

ILLEGAL RECRUITMENT AND PROHIBITED PRACTICES

Art. 28. Illegal Recruitment. ~~(a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority, shall be deemed illegal and punishable under Article 39 of this Code. The Department of Labor and Employment or any law enforcement officer may initiate complaints under this Article.~~

~~(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.~~

~~Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as a group.~~

~~(c) The Secretary of Labor and Employment or his duly authorized representatives shall have the power to cause the arrest and detention of such non-licensee or non-holder of authority if after investigation it is determined that his activities constitute a danger to national security and public order or will lead to further exploitation of job-seekers. The Secretary shall order the search of the office or premises and seizure of documents, paraphernalia, properties and other implements used in illegal recruitment activities and~~

~~the closure of companies, establishments and entities found to be engaged in the recruitment of workers for overseas employment, without having been licensed or authorized to do so.~~

IT SHALL BE UNLAWFUL FOR NON-LICENSEES OR NON-HOLDERS OF AUTHORITY TO UNDERTAKE RECRUITMENT AND PLACEMENT CONTEMPLATED UNDER ARTICLE 12 OF THIS CODE: PROVIDED, THAT SUCH NON-LICENSEES OR NON-HOLDERS WHO IN ANY MANNER, OFFER OR PROMISE FOR A FEE EMPLOYMENT TO TWO OR MORE PERSONS SHALL BE DEEMED SO ENGAGED. IT SHALL ALSO BE UNLAWFUL TO COMMIT LIKEWISE INCLUDE THE FOLLOWING ACTS, WHETHER COMMITTED BY ANY PERSON, A NON-LICENSEE, NON-HOLDER, LICENSEE OR HOLDER OF AUTHORITY:

- (a) ~~TO CHARGE OR ACCEPT, DIRECTLY OR INDIRECTLY, ANY AMOUNT GREATER THAN THAT SPECIFIED IN THE SCHEDULE OF ALLOWABLE FEES PRESCRIBED BY THE SECRETARY OF LABOR AND EMPLOYMENT, OR TO MAKE A WORKER PAY ANY AMOUNT GREATER THAN THAT ACTUALLY RECEIVED BY HIM AS A LOAN OR ADVANCE FEE, OR TO MAKE WORKERS PAY ANY OTHER FEE;~~
- (b) TO FURNISH OR PUBLISH ANY FALSE NOTICE OR INFORMATION OR DOCUMENT IN RELATION TO RECRUITMENT OR EMPLOYMENT;
- (c) TO GIVE ANY FALSE NOTICE, TESTIMONY, INFORMATION OR DOCUMENT OR COMMIT ANY ACT OF MISREPRESENTATION FOR THE PURPOSE OF SECURING A LICENSE OR AUTHORITY UNDER THIS CODE; OR FOR THE PURPOSE OF DOCUMENTING HIRED WORKERS WITH THE POEA DOLE OR DMW, AS THE CASE MAY BE, WHICH INCLUDE THE ACT OF REPROCESSING WORKERS THROUGH A JOB ORDER THAT PERTAINS TO NON-EXISTENT WORK, WORK DIFFERENT FROM THE ACTUAL ~~OVERSEAS~~ WORK, OR WORK WITH A DIFFERENT EMPLOYER WHETHER REGISTERED OR NOT WITH THE POEA DOLE OR DMW;
- (d) TO INDUCE OR ATTEMPT TO INDUCE ~~A WORKERS~~ ALREADY EMPLOYED TO QUIT HIS THEIR EMPLOYMENT IN ORDER TO OFFER

- ~~HIM THEM~~ ANOTHER UNLESS THE TRANSFER IS DESIGNED TO LIBERATE A THE WORKERS FROM OPPRESSIVE TERMS AND CONDITIONS OF EMPLOYMENT;
- (e) TO INFLUENCE OR TO ATTEMPT TO INFLUENCE ~~ANY PERSONS~~ OR ENTITY ENTITIES NOT TO EMPLOY ANY WORKERS WHO ~~HAS~~ HAVE NOT APPLIED FOR EMPLOYMENT THROUGH ~~HIS~~ THEIR AGENCY OR WHO HAVE FORMED, JOINED OR SUPPORTED, OR HAVE CONTACTED OR ARE SUPPORTED BY ANY UNION OR WORKERS' ORGANIZATION;
 - (f) TO ENGAGE IN THE RECRUITMENT OR PLACEMENT OF WORKERS IN JOBS HARMFUL TO PUBLIC HEALTH OR MORALITY OR TO THE DIGNITY OF WORKERS OR THE REPUBLIC OF THE PHILIPPINES;
 - (g) TO OBSTRUCT OR ATTEMPT TO OBSTRUCT INSPECTION BY THE ~~SECRETARY OF LABOR AND EMPLOYMENT~~ SOLE OR DMW SECRETARY OR BY ~~HIS~~ THEIR DULY AUTHORIZED REPRESENTATIVES;
 - (h) TO FAIL TO FILE REPORTS ON THE STATUS OF EMPLOYMENT, PLACEMENT VACANCIES, SEPARATION FROM JOBS, AND SUCH OTHER MATTERS OR INFORMATION AS MAY BE REQUIRED BY THE ~~SECRETARY OF LABOR AND EMPLOYMENT~~ DOLE OR DMW, AS THE CASE MAY BE;
 - (i) TO SUBSTITUTE OR ALTER, TO THE PREJUDICE OF THE WORKER, EMPLOYMENT CONTRACTS APPROVED AND VERIFIED BY THE DOLE AND THE DMW FROM THE TIME OF ACTUAL SIGNING ~~THEREOF~~ BY THE PARTIES UP TO AND INCLUDING THE PERIODS OF EXPIRATION WITHOUT THE APPROVAL OF THE DOLE OR DMW, AS THE CASE MAY BE ~~DEPARTMENT OF LABOR AND EMPLOYMENT;~~
 - (j) FOR ~~AN~~ OFFICERS OR AGENTS OF A RECRUITMENT OR PLACEMENT AGENCY TO BECOME ~~AN~~ OFFICERS OR MEMBERS OF THE BOARD OF ANY CORPORATION ENGAGED IN TRAVEL AGENCY OR TO BE ENGAGED DIRECTLY OR INDIRECTLY IN THE MANAGEMENT OF A TRAVEL AGENCY;
 - (k) TO WITHHOLD OR ~~DENY~~ TRAVEL NECESSARY DOCUMENTS FROM APPLICANT WORKERS BEFORE ~~DEPARTURE~~ EMPLOYMENT FOR

MONETARY OR FINANCIAL CONSIDERATIONS, OR FOR ANY OTHER REASONS, OTHER THAN THOSE AUTHORIZED UNDER THE LABOR THIS CODE AND ITS IMPLEMENTING RULES AND REGULATIONS;

- (l) FAILURE TO ACTUALLY ~~DEPLOY~~ ASSIGN OR DEPLOY A CONTRACTED WORKERS WITHOUT VALID REASON AS DETERMINED BY THE DOLE OR THE DMW;
- (m) FAILURE TO REIMBURSE EXPENSES INCURRED BY THE WORKER IN CONNECTION WITH THEIR DOCUMENTATION AND PROCESSING FOR PURPOSES OF DEPLOYMENT, IN CASES WHERE THE DEPLOYMENT DOES NOT ACTUALLY TAKE PLACE WITHOUT THE WORKER'S FAULT. ILLEGAL RECRUITMENT WHEN COMMITTED BY A SYNDICATE OR IN LARGE SCALE SHALL BE CONSIDERED AN OFFENSE INVOLVING ECONOMIC SABOTAGE; AND
- (n) TO ALLOW A NON-FILIPINO CITIZENS TO HEAD OR MANAGE A LICENSED RECRUITMENT AGENCY AGENCIES.

ILLEGAL RECRUITMENT IS DEEMED COMMITTED BY A SYNDICATE IF CARRIED OUT BY A GROUP OF THREE (3) OR MORE PERSONS CONSPIRING OR CONFEDERATING WITH ONE ANOTHER. IT IS DEEMED COMMITTED IN LARGE SCALE IF COMMITTED AGAINST THREE (3) OR MORE PERSONS INDIVIDUALLY OR AS A GROUP.

IN ADDITION TO THE ACTS ENUMERATED ABOVE, IT SHALL ALSO BE UNLAWFUL FOR PERSONS OR ENTITIES TO COMMIT THE FOLLOWING PROHIBITED ACTS:

- (1) GRANT A LOAN TO ~~AN OVERSEAS~~ WORKERS WITH INTEREST EXCEEDING EIGHT PERCENT (8%) PER ANNUM, WHICH WILL BE USED FOR PAYMENT OF LEGAL AND ALLOWABLE PLACEMENT FEES ~~AND~~ OR MAKE THE WORKERS ISSUE, EITHER PERSONALLY OR THROUGH A GUARANTORS OR ACCOMMODATION PARTY PARTIES, POSTDATED CHECKS IN RELATION TO THE SAID LOAN;
- (2) IMPOSE A COMPULSORY AND EXCLUSIVE ARRANGEMENT WHEREBY A WORKERS IS ARE REQUIRED TO AVAIL OF A LOAN

- ONLY FROM SPECIFICALLY DESIGNATED INSTITUTIONS, ENTITIES OR PERSONS;
- (3) REFUSE TO CONDONE OR RENEGOTIATE A LOAN INCURRED BY A WORKERS AFTER THE LATTER'S EMPLOYMENT CONTRACT HAS BEEN PREMATURELY TERMINATED THROUGH NO FAULT OF ~~HIS OR HER~~ THEIR OWN;
 - (4) IMPOSE A COMPULSORY AND EXCLUSIVE ARRANGEMENT WHEREBY ~~AN OVERSEAS FILIPINO~~ WORKERS IS ARE REQUIRED TO UNDERGO HEALTH EXAMINATIONS ONLY FROM SPECIFICALLY DESIGNATED MEDICAL CLINICS, INSTITUTIONS, ENTITIES OR PERSONS, EXCEPT IN THE CASE OF A SEAFARERS WHOSE MEDICAL EXAMINATION COSTS ~~IS ARE~~ SHOULDERED BY THE PRINCIPAL/SHIPOWNER;
 - (5) IMPOSE A COMPULSORY AND EXCLUSIVE ARRANGEMENT WHEREBY ~~AN OVERSEAS FILIPINO~~ WORKERS IS ARE REQUIRED TO UNDERGO TRAINING, SEMINAR, INSTRUCTION OR SCHOOLING OF ANY KIND ONLY FROM SPECIFICALLY DESIGNATED INSTITUTIONS, ENTITIES OR PERSONS, EXCEPT FOR RECOMMENDATORY TRAININGS MANDATED BY PRINCIPALS/SHIPOWNERS WHERE THE LATTER SHOULDER THE COST OF SUCH TRAININGS;
 - (6) FOR A SUSPENDED RECRUITMENT ~~AGENCY~~ AGENCIES TO ENGAGE IN ANY KIND OF RECRUITMENT ACTIVITY INCLUDING THE PROCESSING OF PENDING WORKERS' APPLICATIONS; AND
 - (7) FOR A RECRUITMENT ~~AGENCY~~ AGENCIES OR A FOREIGN ~~PRINCIPAL/EMPLOYER~~ PRINCIPALS/EMPLOYERS TO PASS ON THE ~~OVERSEAS FILIPINO~~ WORKERS OR DEDUCT FROM ~~HIS OR HER~~ THEIR SALARY THE PAYMENT OF THE COST OF INSURANCE FEES, PREMIUM OR OTHER INSURANCE RELATED CHARGES, AS PROVIDED UNDER THE COMPULSORY WORKER'S INSURANCE COVERAGE.

THE PERSONS CRIMINALLY LIABLE FOR THE ABOVE OFFENSES ARE THE PRINCIPALS, ACCOMPLICES AND ACCESSORIES. IN CASE OF JURIDICAL PERSONS, THE OFFICERS HAVING OWNERSHIP, CONTROL, MANAGEMENT OR DIRECTION OF THEIR BUSINESS WHO ARE RESPONSIBLE FOR THE

COMMISSION OF THE OFFENSE AND THE RESPONSIBLE EMPLOYEES/AGENTS SHALL BE LIABLE.

IN THE FILING OF CASES FOR ILLEGAL RECRUITMENT OR ANY OF THE PROHIBITED ACTS UNDER THIS ARTICLE, THE ~~SECRETARY OF LABOR AND EMPLOYMENT~~ SOLE, SECRETARY OF DMW, ~~THE POEA ADMINISTRATOR~~ OR THEIR AUTHORIZED REPRESENTATIVES, OR ANY AGGRIEVED PERSON MAY INITIATE THE CORRESPONDING CRIMINAL ACTION WITH THE APPROPRIATE OFFICE. FOR THIS PURPOSE, THE AFFIDAVITS AND TESTIMONIES OF OPERATIVES OR PERSONNEL FROM THE ~~DEPARTMENT OF LABOR AND EMPLOYMENT, POEA-DOLE, DMW,~~ AND OTHER LAW ENFORCEMENT AGENCIES WHO WITNESSED THE ACTS CONSTITUTING THE OFFENSE SHALL BE SUFFICIENT TO PROSECUTE THE ACCUSED.

IN THE PROSECUTION OF OFFENSES PUNISHABLE UNDER THIS ARTICLE ~~SECTION,~~ THE PUBLIC PROSECUTORS OF THE DEPARTMENT OF JUSTICE SHALL COLLABORATE WITH THE ~~ANTI-ILLEGAL RECRUITMENT BRANCH OF THE POEA-DOLE OR DMW,~~ AND, IN CERTAIN CASES, ALLOW THE POEA LAWYERS TO TAKE THE LEAD IN THE PROSECUTION. ~~THE POEA LAWYERS WHO ACT AS PROSECUTORS IN SUCH CASES SHALL BE ENTITLED TO RECEIVE ADDITIONAL ALLOWANCES AS MAY BE DETERMINED BY THE POEA ADMINISTRATOR.~~

THE FILING OF AN OFFENSE PUNISHABLE UNDER THIS ACT CODE SHALL BE WITHOUT PREJUDICE TO THE FILING OF CASES PUNISHABLE UNDER OTHER EXISTING LAWS, RULES OR REGULATIONS. (38a)

Art. 29. Penalties.

(a) PERSONS FOUND GUILTY OF ILLEGAL RECRUITMENT SHALL SUFFER THE PENALTY OF IMPRISONMENT OF NOT LESS THAN TWELVE (12) YEARS AND ONE (1) DAY BUT NOT MORE THAN TWENTY (20) YEARS AND A FINE OF NOT LESS THAN ~~ONE~~ TWO MILLION PESOS (P2,000,000.00) NOR MORE THAN ~~TWO~~ FOUR MILLION

- PESOS (P4,000,000.00).
- (b) WHERE THE PERSON ILLEGALLY RECRUITED IS LESS THAN EIGHTEEN (18) YEARS OF AGE OR COMMITTED BY A NON-LICENSEE OR NON-HOLDER OF AUTHORITY, THE MAXIMUM PENALTY SHALL BE IMPOSED.
 - (c) THE PENALTY OF LIFE IMPRISONMENT AND A FINE OF NOT LESS THAN ~~TWO~~ FIVE MILLION PESOS (P5,000,000.00) NOR MORE THAN ~~FIVE~~ TEN MILLION PESOS (P10,000,000.00) SHALL BE IMPOSED IF ILLEGAL RECRUITMENT CONSTITUTES ECONOMIC SABOTAGE AS DEFINED IN ARTICLE 28.
 - (d) PERSONS FOUND GUILTY OF ANY OF THE PROHIBITED ACTS SHALL SUFFER THE PENALTY OF IMPRISONMENT OF NOT LESS THAN SIX (6) YEARS AND ONE (1) DAY BUT NOT MORE THAN TWELVE (12) YEARS AND A FINE OF NOT LESS THAN ~~FIVE HUNDRED THOUSAND PESOS~~ ONE MILLION PESOS (P1,000,000.00) NOR MORE THAN ~~ONE TWO MILLION PESOS~~ (P2,000,000.00).
 - (e) IF THE OFFENDERS ~~IS~~ ARE ~~ALIENS~~ FOREIGN NATIONALS, THEY SHALL, IN ADDITION TO THE PENALTIES PRESCRIBED HERE, BE DEPORTED WITHOUT FURTHER PROCEEDINGS.
 - (f) If the offenderS is ARE a corporationS, partnershipS, associationS or entity ENTITIES, the penalty shall be imposed upon the officer or officers of the corporationS, partnershipS, associationS or entity ENTITIES responsible for THE violation; ~~and if such officer is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings.~~

In every case, conviction shall cause and carry the automatic revocation of the license or authority and all the permits and privileges granted to such person or entity under this Title, and the forfeiture of the cash and surety bonds in favor of the ~~Overseas Employment Development Board or the National Seamen Board, as the case may be,~~ BUREAU OF LOCAL EMPLOYMENT ~~both of which are authorized to use the same~~ AS A SPECIAL FUND TO BE USED exclusively ~~to promote their objectives~~ FOR THE AMELIORATION AND BENEFIT OF WORKERS. (39a)

CHAPTER V OVERSEAS EMPLOYMENT

ART. 30. CREATION OF LOCAL EMPLOYMENT OPPORTUNITIES. WHILE ~~RECOGNIZING THE SIGNIFICANT CONTRIBUTION OF FILIPINO MIGRANT WORKERS TO THE NATIONAL ECONOMY THROUGH THEIR FOREIGN EXCHANGE REMITTANCES,~~ THE STATE DOES NOT PROMOTE OVERSEAS EMPLOYMENT AS A MEANS TO SUSTAIN ECONOMIC GROWTH AND ACHIEVE NATIONAL DEVELOPMENT, RECOGNIZING HOWEVER THE SIGNIFICANT CONTRIBUTION OF THE MIGRANT WORKERS TO THE NATIONAL ECONOMY, THE STATE SHALL PROVIDE AN THE EXISTENCE OF THE OVERSEAS EMPLOYMENT PROGRAM RESTS SOLELY ON THE ASSURANCE TO INSURE THAT THE DIGNITY AND FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS OF THE FILIPINO CITIZENS SHALL NOT, AT ANY TIME, BE COMPROMISED OR VIOLATED. THE STATE, THEREFORE, SHALL CONTINUOUSLY CREATE LOCAL EMPLOYMENT OPPORTUNITIES AND PROMOTE THE EQUITABLE DISTRIBUTION OF WEALTH AND THE BENEFITS OF DEVELOPMENT. (new)

ART. 31. TERMINATION OR BAN ON DEPLOYMENT. ~~NOTWITHSTANDING THE PROVISIONS OF SECTIONS 1 AND 5 OF THIS RULE,~~ IN PURSUIT OF THE NATIONAL INTEREST OR WHEN PUBLIC WELFARE SO REQUIRES, THE ~~POEA GOVERNING BOARD~~ DMW, AFTER CONSULTATION WITH THE ~~DFA~~ DEPARTMENT OF FOREIGN AFFAIRS, MAY, AT ANY TIME, TERMINATE OR IMPOSE A BAN ON THE DEPLOYMENT OF MIGRANT WORKERS. (new)

Art. 32. Ban on Direct-Hiring. No employer may hire a Filipino workerS for overseas employment through direct hiring except ~~through the Boards and entities authorized by the Secretary of Labor.~~ BY THE FOLLOWING ENTITIES: ~~Direct hiring by members of the diplomatic corps, international organizations and such other employers as may be allowed by the Secretary of Labor is exempted from this provision.~~

- (1) MEMBERS OF THE DIPLOMATIC CORPS;
- (2) MEMBERS OF INTERNATIONAL ORGANIZATIONS; and

- (3) HEADS OF STATE AND GOVERNMENT OFFICIALS WITH THE RANK OF AT LEAST UNDERSECRETARY.

THE TERM "INTERNATIONAL ORGANIZATION" IS AN ORGANIZATION SET UP BY AGREEMENT BETWEEN TWO OR MORE STATES, INCLUDING A SPECIALIZED AGENCY HAVING FUNCTIONS IN PARTICULAR FIELDS. IT MAY ALSO INCLUDE AN ORGANIZATION HAVING AN INTERNATIONAL CHARACTER AND PURPOSE, WHICH IS GRANTED THE STATUS, PREROGATIVES, PRIVILEGES AND IMMUNITIES OF AN INTERNATIONAL ORGANIZATION. (18a)

ART. 33. APPLICABILITY OF MIGRANT WORKERS ACT. ALL OTHER PROVISIONS OF REPUBLIC ACT NO. 8042, AS AMENDED, AND RULES AND REGULATIONS NOT INCONSISTENT HEREWITH ARE DEEMED ADOPTED.
(new)

Chapter VI

EMPLOYMENT OF NON-RESIDENT ~~ALIENS~~ FOREIGN NATIONALS

Art. 34. Employment Permit of Non-Resident ~~aliens~~ FOREIGN NATIONALS.
~~Any alien~~ NON-RESIDENT FOREIGN NATIONALS seeking ~~admission to~~ EMPLOYMENT IN the Philippines and ~~any~~ domestic or foreign employerS who ~~desires~~ DESIRE to engage ~~an alien~~ A FOREIGN NATIONALS for employment in the Philippines shall obtain an employment permit from the DOLE.

The AN employment permit may be issued to a non-resident ~~alien~~ FOREIGN NATIONAL or to the applicant employer after a determination of the non-availability of a person in the Philippines who is ~~competent, able,~~ QUALIFIED and willing at the time of application to perform the services for which the ~~alien~~ NON-RESIDENT FOREIGN NATIONAL is desired.

THE SOLE IS AUTHORIZED TO GRANT EXEMPTIONS FROM THE LABOR MARKET TEST TO FOREIGN NATIONALS AS PROVIDED FOR UNDER EXISTING LAWS AND AGREEMENTS, AS WELL AS IN INDUSTRIES OR

OCCUPATIONS OR PRACTICE OF PROFESSIONS WHERE THERE IS SHORT SUPPLY SUBJECT TO TRIPARTITE CONSULTATIONS.

For an enterpriseS registered in preferred areas of investments, said employment permit may be issued upon recommendation of the government agency charged with the supervision of said registered enterprise. (40a)

ART. 35. VALIDITY OF FOREIGN NATIONAL EMPLOYMENT PERMIT (FNEP). THE FNEP SHALL BE VALID FOR THE POSITION AND COMPANY FOR WHICH IT WAS ISSUED FOR A PERIOD OF ONE (1) YEAR, UNLESS THE EMPLOYMENT CONTRACT, OR OTHER MODES OF ENGAGEMENT PROVIDES OTHERWISE, WHICH IN NO CASE SHALL EXCEED THREE (3) YEARS.

A FOREIGN NATIONAL EMPLOYMENT PERMIT IS ONE ISSUED TO A NON-RESIDENT FOREIGN NATIONAL OR TO AN APPLICANT EMPLOYER AFTER A DETERMINATION OF THE NON-AVAILABILITY OF A PERSON QUALIFIED AND WILLING AT THE TIME OF APPLICATION TO PERFORM THE SERVICES FOR WHICH THE NON-RESIDENT FOREIGN NATIONAL IS DESIRED. (new)

ART. 36. RENEWAL OF FNEP. AN APPLICATION FOR RENEWAL OF FNEP SHALL BE FILED NOT EARLIER THAN SIXTY (60) DAYS BEFORE ITS EXPIRATION. IN CASE THE FOREIGN NATIONAL NEEDS TO LEAVE THE COUNTRY OR IN OTHER SIMILAR CIRCUMSTANCES THAT WILL HINDER THE FILING OF RENEWAL WITHIN THIS PRESCRIBED PERIOD, THE APPLICATION MAY BE FILED EARLIER. (new)

ART. 37. DENIAL OF APPLICATION. AN APPLICATION FOR FNEP SHALL BE DENIED BY THE DOLE BASED ON ANY OF THE FOLLOWING GROUNDS:

(a) MISREPRESENTATION OF FACTS IN THE APPLICATION INCLUDING FRAUDULENT MISREPRESENTATION I.E. FALSE STATEMENT THAT HAS A NEGATIVE EFFECT IN THE EVALUATION OF THE APPLICATION MADE KNOWINGLY, OR WITHOUT BELIEF IN ITS TRUTH, OR RECKLESSLY WHETHER IT IS TRUE OR FALSE;

- (b) SUBMISSION OF FALSIFIED DOCUMENTS;
- (c) CONVICTION OF THE FOREIGN NATIONAL OF A CRIMINAL OFFENSE OR THE FOREIGN NATIONAL IS A FUGITIVE FROM JUSTICE IN THE PHILIPPINES OR ABROAD;
- (d) ILL TREATMENT OF WORKERS;
- (e) AVAILABILITY OF A PERSON IN THE PHILIPPINES WHO IS QUALIFIED AND WILLING TO DO THE JOB INTENDED FOR OR BEING PERFORMED BY THE FOREIGN NATIONAL BASED ON DATA IN THE PUBLIC EMPLOYMENT INFORMATION SYSTEM (PEIS), PROFESSIONAL REGULATION COMMISSION (PRC) REGISTRY OF PROFESSIONALS, AND TESDA REGISTRY OF CERTIFIED WORKERS;
- (f) THE FOREIGN NATIONAL HAS WORKED WITHOUT FNEP FOR MORE THAN A YEAR; OR
- (g) APPLICATION FOR RENEWAL WITH EXPIRED VISA OR WITH TEMPORARY VISITOR'S VISA.

NO FNEP SHALL BE ISSUED TO A FOREIGN NATIONAL CONSIDERED AN UNDESIRABLE ALIEN UNDER COMMONWEALTH ACT NO. 613 (THE PHILIPPINE IMMIGRATION ACT OF 1940).

THE REGIONAL DIRECTOR SHALL ISSUE AN ORDER DENYING THE APPLICATION FOR NEW OR RENEWAL OF FNEP WHICH SHALL HAVE THE EFFECT OF FORFEITURE OF THE FEES PAID BY THE APPLICANT. (new)

ART. 38. CANCELLATION/REVOCAION OF FNEP. AN FNEP MAY BE CANCELLED OR REVOKED UPON ANY OF THE FOLLOWING GROUNDS:

- (a) NON-COMPLIANCE WITH ANY OF THE REQUIREMENTS OR CONDITIONS FOR WHICH THE FNEP WAS ISSUED;
- (b) MISREPRESENTATION OF FACTS IN THE APPLICATION INCLUDING FRAUDULENT MISREPRESENTATION I.E. FALSE STATEMENT THAT HAS A NEGATIVE EFFECT IN THE EVALUATION OF THE

- APPLICATION MADE KNOWINGLY, OR WITHOUT BELIEF IN ITS TRUTH, OR RECKLESSLY WHETHER IT IS TRUE OR FALSE;
- (c) SUBMISSION OF FALSIFIED DOCUMENTS;
 - (d) MERITORIOUS OBJECTION OR INFORMATION AGAINST THE EMPLOYMENT OF THE FOREIGN NATIONAL;
 - (e) CONVICTION OF THE FOREIGN NATIONAL OF A CRIMINAL OFFENSE OR THE FOREIGN NATIONAL IS A FUGITIVE FROM JUSTICE IN THE PHILIPPINES OR ABROAD;
 - (f) EMPLOYER TERMINATED THE EMPLOYMENT OF THE FOREIGN NATIONAL; AND
 - (g) ILL TREATMENT OF WORKERS.

AN FNEP ISSUED TO A FOREIGN NATIONAL WHO SUBSEQUENTLY BECOMES AN UNDESIRABLE ALIEN UNDER COMMONWEALTH ACT NO. 613 SHALL BE CANCELLED OR REVOKED.

IN ANY CASE UNDER THIS ARTICLE, THE REGIONAL DIRECTOR SHALL ISSUE AN ORDER CANCELLING OR REVOKING THE FNEP. (new)

ART. 39. EXEMPTION FROM EMPLOYMENT PERMIT. THE FOLLOWING CATEGORIES OF FOREIGN NATIONALS ARE EXEMPT FROM SECURING AN FNEP:

- (a) ALL MEMBERS OF THE DIPLOMATIC SERVICE AND FOREIGN GOVERNMENT OFFICIALS ACCREDITED BY AND WITH RECIPROCITY ARRANGEMENT WITH THE PHILIPPINE GOVERNMENT;
- (b) OFFICERS AND STAFF OF INTERNATIONAL ORGANIZATIONS OF WHICH THE PHILIPPINE GOVERNMENT IS A MEMBER;
- (c) ALL FOREIGNERS GRANTED EXEMPTION BY LAW;
- (d) OWNERS AND REPRESENTATIVES OF FOREIGN PRINCIPALS WHOSE COMPANIES ARE ACCREDITED BY THE DMW, WHO COME TO THE PHILIPPINES FOR A LIMITED PERIOD AND SOLELY FOR THE PURPOSE OF INTERVIEWING FILIPINO APPLICANTS FOR EMPLOYMENT

ABROAD.

FOREIGN NATIONALS WHO COME TO THE PHILIPPINES TO TEACH, PRESENT OR CONDUCT RESEARCH STUDIES IN UNIVERSITIES AND COLLEGES AS VISITING, EXCHANGE OR ADJUNCT PROFESSORS UNDER FORMAL AGREEMENTS BETWEEN THE UNIVERSITIES OR COLLEGES IN THE PHILIPPINES AND FOREIGN UNIVERSITIES OR COLLEGES; OR BETWEEN THE PHILIPPINE GOVERNMENT AND FOREIGN GOVERNMENT; *PROVIDED*, THAT THE EXEMPTION IS ON A RECIPROCAL BASIS. (new)

ART. 40. EXCLUSION FROM EMPLOYMENT PERMIT. THE FOLLOWING CATEGORIES OF FOREIGN NATIONALS ARE EXCLUDED FROM SECURING AN EMPLOYMENT PERMIT:

- (a) MEMBERS OF THE GOVERNING BOARD WITH VOTING RIGHTS ONLY WHO DO NOT INTERVENE IN THE MANAGEMENT OF THE CORPORATION OR IN THE DAY-TO-DAY OPERATION OF THE ENTERPRISE.
- (b) PRESIDENT AND TREASURER, WHO ARE PART OWNERS OF THE COMPANY.
- (c) THOSE PROVIDING CONSULTANCY SERVICES WHO DO NOT HAVE EMPLOYERS IN THE PHILIPPINES.

INTRA-CORPORATE TRANSFEREES WHO ARE MANAGERS, EXECUTIVES, OR SPECIALISTS AS DEFINED IN ACCORDANCE TO TRADE AGREEMENTS AND EMPLOYEES OF FOREIGN SERVICE SUPPLIERS FOR AT LEAST ONE (1) YEAR OF CONTINUOUS EMPLOYMENT PRIOR TO DEPLOYMENT TO A BRANCH, SUBSIDIARY, AFFILIATE OR REPRESENTATIVE OFFICE IN THE PHILIPPINES. (new)

Art. 41. Prohibition against Transfer of Employment.

- (a) After the issuance of an employment permit, ~~the alien~~ NON-RESIDENT FOREIGN NATIONALS shall not transfer to another job or change ~~his~~ THEIR employer without prior approval of the ~~Secretary of Labor~~ SOLE.

(b) ~~Any~~ Non-resident ~~alien~~ FOREIGN NATIONALS who ~~shall~~ take up employment in violation of the provision of this Title and its implementing rules and regulations shall be punished ~~in accordance with the provisions of Articles 289 and 290 of the Labor Code.~~ WITH A FINE of NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) NOR MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00), OR IMPRISONMENT OF NOT LESS THAN SIX (6) MONTHS NOR MORE THAN SIX (6) YEARS OR BOTH SUCH FINE AND IMPRISONMENT AT THE DISCRETION OF THE COURT.

In addition, the ~~alien~~ NON-RESIDENT FOREIGN NATIONALS shall be subject to deportation after service of ~~his~~ THEIR sentence.

THE SOLE IS AUTHORIZED TO IMPOSE A FINE OF FIFTY THOUSAND PESOS (P50,000.00) FOR EVERY YEAR OR FRACTION TO BOTH THE NON-RESIDENT FOREIGN NATIONAL FOUND WORKING WITHOUT VALID EMPLOYMENT PERMIT AND THE EMPLOYER. (41a)

Art. 42. Submission of List. ~~Any~~ Employers employing non-resident foreign nationals ~~on the effective date of this Code~~ shall submit a list of such nationals to the ~~Secretary of Labor~~ ~~within thirty (30) days after such date~~ REGIONAL DIRECTOR OF THE DOLE WHICH HAS JURISDICTION OVER THE EMPLOYER NOT LATER THAN THE 15TH DAY OF JANUARY EVERY YEAR indicating their names, citizenship, foreign and local addresses, nature of employment and status of stay in the country. ~~The Secretary of Labor shall then determine if they are entitled to an employment permit.~~ (42a)

Chapter VII

MISCELLANEOUS PROVISIONS

Art. 43. Suspension and/or Cancellation of License or Authority. ~~The Minister of Labor~~ DOLE OR DMW shall have the power to suspend or cancel any license or authority to recruit employees for LOCAL OR overseas employment for violation of rules and regulations issued by the ~~Ministry of Labor, the Overseas Employment~~

~~Development Board~~ DOLE OR DMW AND ATTACHED AGENCIES, or for violation of the provisions of this CODE and other applicable laws, ~~General Orders and Letters of Instruction~~ RULES AND REGULATIONS. (35a)

Art. 44. Regulatory Power. The ~~Secretary of Labor~~ SOLE OR DMW SECRETARY, AS THE CASE MAY BE, shall have the power to restrict and regulate the recruitment and placement activities of all agencies within the coverage of this Title and is hereby authorized to issue orders and promulgate rules and regulations to carry out the objectives and implement the provisions of this Title. (36a)

Art. 45. Visitorial Power. The ~~Secretary of Labor~~ SOLE or DMW SECRETARY, AS THE CASE MAY BE, OR ~~his~~ THEIR duly authorized representatives may, at any time, inspect the premises, books of accounts and records of any person or entity covered by this Title, require it to submit reports regularly on prescribed forms, and act on violation of any provisions of this Title. (37a)

BOOK TWO

HUMAN RESOURCES DEVELOPMENT PROGRAM

Title I

TRAINING AND ~~EMPLOYMENT~~ DEVELOPMENT OF SPECIAL WORKERS

Chapter I

APPRENTICES

Art. 46. Statement of Objectives. This Title aims:

- (1) To help meet the demand of the economy for trained ~~manpower~~ WORKFORCE;
- (2) To establish a national apprenticeship program through the participation of employers, workers and government and non-government agencies; and
- (3) To establish apprenticeship standards for the protection of apprentices. (57)

Art. 47. Definition of Terms. As used in this Title:

- (a) "*Apprenticeship*" means practical training on the job supplemented by related theoretical instruction.

- (b) An "*apprentice*" is a worker who is covered by a written apprenticeship agreement with an individual employer or any of the entities recognized under this Chapter.
- (c) An "*apprenticeable occupation*" means any trade, form of employment or occupation which requires more than three (3) months of practical training on the job supplemented by related theoretical instruction.
- (d) "*Apprenticeship agreement*" is an employment contract wherein the employers bind themselves to train the apprentice and the apprentice in turn accepts the terms of training. (58)

Art. 48. Qualifications of Apprentice. To qualify as an apprentice, a person shall:

- (a) Be at least ~~fourteen (14)~~ 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.

Trade and industry associations may recommend to the ~~Secretary of Labor~~ SOLE appropriate educational requirements for different occupations. (59a)

Art. 49. Employment of Apprentices. Only employers in the highly technical industries may employ apprentices and only in apprenticeable occupations approved by the ~~Secretary of Labor and Employment~~ TRIPARTITE INDUSTRIAL PEACE COUNCIL (TIPC). (60a)

Art. 50. 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~~ SOLE. The period of apprenticeship shall not exceed six (6) months. Apprenticeship agreements providing for wage rates below the legal minimum wage, which in no case shall start below SEVENTY-FIVE percent (75%) of the applicable minimum wage, may be entered into only in accordance with apprenticeship programs duly approved by the ~~Secretary of Labor and Employment~~ SOLE. The Department shall develop standard model programs of apprenticeship. (61a)

Art. 51. Signing of Apprenticeship Agreement. Every apprenticeship agreement shall be signed by the employerS or THEIR agentS, or by an THE authorized representativeS of any of the recognized organizations, associations or groups and by the apprenticeS.

An Apprenticeship agreementS with a minorS shall be signed in his THEIR behalf by his THEIR parentS or guardianS, OR if the latter is ARE not available, by an authorized representative of the ~~Department of Labor~~DOLE, and the same shall be binding during its lifetime.

Every apprenticeship agreement entered into under this Title shall be ratified by the appropriate apprenticeship committees, if any, and a copy shall be furnished both the employerS and the apprenticeS. (62a)

Art. 52. Venue of Apprenticeship Programs. ~~Any~~ FirmS, employerS, groupS or associationS, industry organizationS or civic groupS 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~~DOLE 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. (63)

Art. 53. Sponsoring of Apprenticeship Program. Any of the apprenticeship schemes recognized herein may be undertaken or sponsored by a single employerS or firmS or by a groupS or associationS thereof or by a civic organizationS. 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~~ DOLE training center or other public training institution. (64a)

Art. 54. 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~~ DOLE 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~~ SOLE. (65a)

Art. 55. Appeal to the Secretary of Labor and Employment. The decision of the authorized agency of the ~~Department of Labor and Employment~~ DOLE may be appealed by any aggrieved person to the ~~Secretary of Labor and Employment~~ SOLE within five (5) days from receipt of the decision. The decision of the ~~Secretary of Labor and Employment~~ SOLE shall be final and executory. (66a)

Art. 56. 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 they have exhausted all available administrative remedies. (67)

Art. 57. 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~~ DOLE shall perform the service free of charge. (68)

Art. 58. Responsibility for Theoretical Instruction. Supplementary theoretical instruction to apprentices in cases where the program is undertaken in the plant may be done by the employerS. If the latter is ARE not prepared to assume the responsibility, the same may be delegated to an appropriate government agency. (69a)

Art. 59. 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~~ SOLE. Appropriate rules in this connection shall be promulgated by the ~~Secretary of Labor and Employment~~ SOLE 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. (70a)

Art. 60. Deductibility of Training Costs. An additional deduction from taxable income of one-half (1/2) 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~~ DOLE: *Provided, further*, That such deduction shall not exceed ten (10%) percent of direct labor wage: and *Provided, finally*, That the personS or enterpriseS who wishes to avail himself or itself THEMSELVES of this incentive should pay his THEIR apprentices the minimum wage. (71a)

Art. 61. Apprentices without Compensation. The ~~Secretary of Labor and Employment~~ SOLE may authorize the hiring of apprentices without compensation whose training on the job is required by the school or training program curriculum or as requisite for graduation or board examination. (72)

BOOK THREE CONDITIONS OF EMPLOYMENT

Title I WORKING ~~CONDITIONS~~ AND REST PERIODS CONDITIONS

Chapter I
HOURS OF WORK

Art. 62. Coverage. The provisions of this Title shall apply to employees, FULL-TIME OR PART-TIME, in all establishments and undertakings whether for profit or not, but not to government employees, managerial employees, field personnel, ~~members of the family of the employer who are dependent on him for support,~~ domestic helpers WORKERS, AND persons in the personal service of another, ~~and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations.~~

As used herein, “*managerial employees*” refer to those whose primary duty consists of the management of the establishment in which they are employed ~~or of a department or subdivision thereof, and to other officers or members of the managerial staff.~~

“*Field personnel*” shall refer to non-agricultural employees who regularly perform their duties away from the principal place of business or branch office of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty.

A “*NON-GOVERNMENTAL ORGANIZATION,*” COMMONLY REFERRED TO AS AN NGO, IS A REGISTERED NONPROFIT AND NON-STOCK ORGANIZATION, ORGANIZED ON A LOCAL, NATIONAL OR INTERNATIONAL LEVEL, THAT FUNCTIONS INDEPENDENTLY OF GOVERNMENT TO PROMOTE PARTICULAR CAUSES OR ADVOCACIES, INCLUDING A RELIGIOUS, CHARITABLE, MEDICAL OR EDUCATIONAL ORGANIZATION THAT IS NOT OPERATING FOR PROFIT. (82a)

ART. 63. PART-TIME WORKERS.

- (a) PART-TIME WORKERS ARE THOSE WHO ARE ENGAGED IN A SINGLE, REGULAR OR VOLUNTARY FORM OF EMPLOYMENT WITH HOURS OF WORK SUBSTANTIALLY SHORTER THAN THOSE CONSIDERED AS NORMAL IN THE ESTABLISHMENT.

- (b) THE NORMAL HOURS OF WORK REFERRED TO IN SUBPARAGRAPH (A) MAY BE CALCULATED WEEKLY OR ON AVERAGE OVER A GIVEN PERIOD OF EMPLOYMENT;
- (c) THE TERM COMPARABLE FULL-TIME WORKERS REFERS TO FULL-TIME WORKERS WHO:
 - (i) HAVE THE SAME TYPE OF EMPLOYMENT RELATIONSHIP;
 - (ii) ARE ENGAGED IN THE SAME OR A SIMILAR TYPE OF WORK OR OCCUPATION; AND
 - (iii) ARE EMPLOYED IN THE SAME ESTABLISHMENT OR, WHEN THERE IS NO COMPARABLE FULL-TIME WORKER IN THAT ESTABLISHMENT, IN THE SAME ENTERPRISE OR, WHEN THERE IS NO COMPARABLE FULL-TIME WORKER IN THAT ENTERPRISE, IN THE SAME BRANCH OF ACTIVITY.
- (d) THIS DEFINITION EXCLUDES CERTAIN FORMS OF EMPLOYMENT WHICH ALTHOUGH REFERRED TO AS PART-TIME WORK, ARE IN PARTICULAR, INTERMITTENT EMPLOYMENT, OR CASES WHERE HOURS OF WORK HAVE BEEN TEMPORARILY REDUCED FOR ECONOMIC, TECHNICAL OR STRUCTURAL REASONS.

PART-TIME WORK MAY TAKE DIFFERENT FORMS DEPENDING ON THE AGREED HOURS OF WORK IN A DAY, THE DAYS OF WORK IN A WEEK OR OTHER REFERENCE PERIODS. IN THE PHILIPPINES, HOWEVER, THE TWO MOST COMMON AND ACCEPTABLE FORMS ARE FOUR (4) HOURS WORK PER DAY AND WEEKEND WORK OR TWO (2) FULL DAYS PER WEEK. (new)

Art. 64. Normal Hours of Work. The normal hours of work of any employees shall not exceed eight (8) hours a day.

Health personnel in cities and municipalities with a population of at least one million (1,000,000) or in hospitals and clinics with a bed capacity of at least one hundred (100) shall hold regular office hours for eight (8) hours a day, for five (5) days a week, exclusive of time for meals, except where the exigencies of the service require that such personnel work for six (6) days or forty-eight (48) hours, in which case, they shall be

entitled to an additional compensation of at least thirty percent (30%) of their regular wage for work on the sixth day. For purposes of this Article, "health personnel" shall include resident physicians, nurses, nutritionists, dietitians, pharmacists, social workers, laboratory technicians, paramedical technicians, psychologists, BIRTH attendants, HEALTH CARE PROVIDERS and all other hospital, or clinic OR HEALTH CENTER personnel. (83a)

Art. 65. Hours Worked. Hours worked shall include (a) all time during which an employeeS is ARE required to be on duty or to be at a prescribed workplace; and (b) all time during which an employeeS is ARE suffered or permitted to work.

~~Rest periods of short duration during working hours OR COFFEE BREAKS OF FROM~~ FIVE (5) TO TWENTY (20) MINUTES shall be counted as hours worked. (84a)

~~Art. 66. Meal Periods. BREAK TIME. Subject to such regulations as the Secretary of Labor may prescribe, it shall be the duty of every employer to give his employees~~ EMPLOYERS SHALL GIVE EVERY EMPLOYEE not less than sixty (60) minutes BREAK time ~~off for their regular meals.~~ (85a)

Art. 67. Night-Shift Differential. Every EmployeeS shall be paid a night shift differential of not less than ten percent (10%) of his THEIR regular wage for each hour of work performed between ten o'clock in the evening and six o'clock in the morning. (86a)

Art. 68. Overtime Work. Work may be performed beyond eight (8) hours a day provided that the employeeS is ARE paid for the overtime work, an additional compensation equivalent to his THEIR regular wage plus at least twenty-five percent (25%) thereof. Work performed beyond eight (8) hours on a holiday or rest day shall be paid an additional compensation equivalent to the rate of the first eight (8) hours on a holiday or rest day plus at least thirty percent (30%) thereof. (87a)

Art. 69. Undertime Not Offset by Overtime. Undertime work on any particular day shall not be offset by overtime work on any other day. Permission given to the

employeeS to go on leave on some other day of the week shall not exempt the employerS from paying the additional compensation required in this Chapter. (88a)

Art. 70. Emergency Overtime Work. ~~Any~~ EmployeeS may be required by the employerS to perform overtime work in any of the following cases:

- (a) When the country is at war or when any other national or local emergency has been declared by the ~~National Assembly or the Chief Executive~~ CONGRESS OR THE PRESIDENT OR THE LOCAL CHIEF EXECUTIVE;
- (b) When it is necessary to prevent loss of life or property or in case of imminent danger to public safety due to an actual or impending emergency in the locality caused by serious accidents, fire, flood, typhoon, earthquake, epidemic, or other disaster or calamity;
- (c) When there is urgent work to be performed on machines, installations, or equipment, in order to avoid serious loss or damage to the employer or some other cause of similar nature;
- (d) When the work is necessary to prevent loss or damage to perishable goods; ~~and~~
- (e) Where the completion or continuation of the work started before the eighth hour is necessary to prevent serious obstruction or prejudice to the business or operations of the employer; AND
- (f) WHEN OVERTIME WORK IS NECESSARY TO AVAIL OF FAVORABLE WEATHER OR ENVIRONMENTAL CONDITIONS WHERE PERFORMANCE OR QUALITY OF WORK IS DEPENDENT THEREON.

PREGNANT OR NURSING WOMEN SHOULD NOT BE OBLIGED TO RENDER OVERTIME WORK IF A MEDICAL CERTIFICATE DECLARES SUCH WORK TO BE INCOMPATIBLE WITH THEIR PREGNANCY OR NURSING.

~~Any~~ EmployeeS required to render overtime work under this Article shall be paid the additional compensation required in this Chapter. (89a)

Art. 71. 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 the cash wage only, without deduction on account of facilities provided by the employer. (90)

Chapter II WEEKLY REST PERIODS

Art. 72. Right to Weekly Rest Day.

- (a) It shall be the duty of every employerS, ~~whether operating for profit or not,~~ to provide each of his THEIR employees a rest period of ~~not less than twenty-four (24) consecutive hours~~ ONE DAY after every six (6) consecutive normal work days.
- (b) The employerS shall determine and schedule the weekly rest day of his THEIR employees subject to collective bargaining agreement OR, IN ITS ABSENCE, to such rules and regulations as the ~~Secretary of Labor and Employment~~ SOLE may provide.

~~However,~~ the EmployerS shall respect the preference of employees as to their weekly rest day when such preference is based on religious grounds. (91a)

Art. 73. When EmployerS May Require Work on a Rest Day. The EmployerS may require his THEIR employees to work on any day:

- (a) In case of actual or impending emergencies caused by serious accident, 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 the machinery, equipment, or installation, to avoid serious loss which the employer would otherwise suffer;
- ~~e. In the event of abnormal pressure of work due to special circumstances, where the employer cannot ordinarily be expected to resort to other measures;~~
- (c) To prevent loss or damage to perishable goods; OR
- ~~d. Where the nature of the work requires continuous operations and the stoppage of work may result in irreparable injury or loss to the employer; and~~
- ~~e. Under other circumstances analogous or similar to the foregoing as determined by the Secretary of Labor and Employment.~~

- (d) WHEN THE WORK IS NECESSARY TO AVAIL OF FAVORABLE WEATHER OR ENVIRONMENTAL CONDITIONS WHERE PERFORMANCE OR QUALITY OF WORK IS DEPENDENT THEREON.

PREGNANT OR NURSING WOMEN SHOULD NOT BE OBLIGED TO WORK ON A REST DAY IF A MEDICAL CERTIFICATE DECLARES SUCH WORK TO BE INCOMPATIBLE WITH THEIR PREGNANCY OR NURSING. (92a)

Art. 74. Compensation for rest day ~~or Holiday Work~~ OR SUNDAY.

- (a) Where ~~an employeeS~~ ~~is~~ ARE made or permitted to work on ~~his~~ THEIR scheduled rest day, ~~he~~ THEY shall be paid an additional compensation of at least thirty percent (30%) of ~~his~~ THEIR regular wage. An employee shall be entitled to such additional compensation for work performed on Sunday only when it is ~~his~~ THEIR established rest day.
- (b) When the nature of the work of the employeeS is such that ~~he has~~ THEY HAVE no regular workdays and no regular rest days can be scheduled, ~~he~~ THEY shall be paid an additional compensation of at least thirty percent (30%) of ~~his~~ THEIR regular wage for work performed on Sundays.
- ~~e. Work performed on any special holiday shall be paid an additional compensation of at least thirty percent (30%) of the regular wage of the employee. Where such holiday work falls on the employee's scheduled rest day, he shall be entitled to an additional compensation of at least fifty per cent (50%) of his regular wage.~~
- (c) WORKERS WHO PERFORM WORK ON ANY SPECIAL HOLIDAY, WHETHER DECLARED NATIONALLY OR LOCALLY, SHALL BE PAID THEIR REGULAR DAILY WAGE AND AN ADDITIONAL COMPENSATION OF AT LEAST THIRTY PERCENT (30%) OF THEIR REGULAR WAGE.

Where the collective bargaining agreement or other applicable employment contract stipulates the payment of a higher premium pay than that prescribed under this Article, ~~the employerS~~ shall pay such higher rate. (93a)

Chapter III

~~HOLIDAYS, SERVICE INCENTIVE LEAVES AND SERVICE CHARGES~~

Art. 75. Right to Holiday Pay.

- (a) ~~Every WorkerS~~ shall be paid ~~his~~ THEIR regular daily wage during regular holiday, ~~except in retail and service establishments regularly employing less than ten (10) workers~~ UNLESS THEY ARE WORKERS OF NON-GOVERNMENTAL ORGANIZATIONS EMPLOYING LESS THAN TEN (10) WORKERS.
- (b) ~~The employer may require an employee to work on any holiday but such employee~~ EMPLOYEES WHO WORK ON ANY REGULAR HOLIDAY shall be paid a compensation equivalent to twice ~~his~~ THEIR regular rate; and
- (c) WORK PERFORMED ON ANY SPECIAL HOLIDAY SHALL BE PAID AN ADDITIONAL COMPENSATION OF AT LEAST THIRTY PERCENT (30%) OF THE REGULAR WAGE OF THE EMPLOYEE. WHERE SUCH HOLIDAY WORK FALLS ON THE EMPLOYEES' SCHEDULED REST DAY, THEY SHALL BE ENTITLED TO AN ADDITIONAL COMPENSATION OF AT LEAST FIFTY PERCENT (50%) OF THEIR REGULAR WAGE.
- (d) As used in this Article, "~~holiday~~" ~~includes New Year's Day, Maundy Thursday, Good Friday, the ninth of April, the first of May, the twelfth of June, the fourth of July, the thirtieth of November, the twenty fifth and thirtieth of December and the day designated by law for holding a general election~~ "HOLIDAYS" ARE THE REGULAR AND SPECIAL HOLIDAYS AS PROVIDED UNDER EXISTING LAWS. (94a)

CHAPTER IV

SERVICE INCENTIVE LEAVE

Art. 76. Service Incentive Leave.

- (a) ~~Every~~ Employees who ~~has~~ HAVE rendered at least one (1) year of service shall be entitled to a yearly service incentive leave of five (5) days with pay.
- (b) This provision shall not apply to those who are already enjoying the benefit herein provided, AND those enjoying vacation leave with pay of at least ~~five~~ TEN (10)

~~days and those employed in establishments regularly employing less than ten employees or in establishments exempted from granting this benefit by the Secretary of Labor and Employment after considering the viability or financial condition of such establishment.~~

- (c) The grant of benefit in excess of that provided herein shall not be ~~made a subject of arbitration or any court or administrative action~~ DIMINISHED. (95a)

CHAPTER V SERVICE CHARGES

Art. 77. 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 the employees shall be equally distributed among them. In case the service charge is abolished, the share of the covered employees shall be considered integrated in their wages.

THE SHARES REFERRED TO IN THIS ARTICLE SHALL BE DISTRIBUTED AND PAID TO THE EMPLOYEES NOT LESS THAN ONCE EVERY TWO (2) WEEKS OR TWICE A MONTH AT INTERVALS NOT EXCEEDING SIXTEEN (16) DAYS. (96a)

CHAPTER VI FACILITIES

Art. 78. Facilities for Women. ~~The Secretary of Labor and Employment~~ SOLE shall establish standards that will ensure the safety and health of women ~~employees~~ WORKERS. ~~In appropriate cases, he shall, by regulations, require any employer to~~ EMPLOYERS SHALL BE REQUIRED TO:

- (a) Provide seats ~~proper~~ for women WORKERS and permit them to use such seats when they are free from work and during working hours, provided they can perform their duties in this position without detriment to efficiency;

- (b) ~~To establish~~ PROVIDE separate toilet rooms and lavatories for men and women WORKERS AND WHERE APPROPRIATE, GENDER-NEUTRAL TOILET ROOMS AND LAVATORIES; AND ~~and provide at least a dressing room for women;~~
- (c) ~~To establish a nursery in a workplace for the benefit of the women employees therein; and~~
- (d) ~~To determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.~~
- (c) PROVIDE SUCH OTHER FACILITIES THAT THE SOLE MAY DEEM APPROPRIATE. (130a)

Title II WAGES

Chapter I PRELIMINARY MATTERS

Art. 79. Definitions. As used in this Title:

- (a) "*Person*" means an individual, partnership, association, corporation, business trust, legal representatives, or any organized group of persons.
- (b) "*Employer*" includes any person acting directly or indirectly in the interest of an employer in relation to an employee and shall include ~~the government and all its branches, subdivisions and instrumentalities~~; all government-owned or controlled corporations and institutions WITHOUT ORIGINAL CHARTER, as well as non-profit private institutions, or organizations.
- (c) "*Employee*" includes any individual employed by an employer. TO ASCERTAIN THE EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP, THE FOUR-FOLD TEST SHALL APPLY, TO WIT: (1) THE SELECTION AND ENGAGEMENT OF THE EMPLOYEE; (2) THE PAYMENT OF WAGES; (3) THE POWER OF DISMISSAL; (4) THE POWER TO CONTROL THE EMPLOYEE'S CONDUCT WHERE THE PERSON FOR WHOM THE SERVICES ARE PERFORMED RESERVES THE RIGHT TO CONTROL NOT ONLY THE END ACHIEVED, BUT ALSO THE MANNER AND MEANS USED TO ACHIEVE THAT END. (DOLE D.O. No. 147-2015)

- (d) “*Agriculture*” includes farming in all its branches and, among other things, includes cultivation and tillage of soil, dairying, the production, cultivation, growing and harvesting of any agricultural and horticultural commodities, the raising of livestock or poultry, and any practices performed by a farmer on a farm as an incident to or in conjunction with such farming operations, but does not include the manufacturing or processing of sugar, coconuts, abaca, tobacco, pineapples or other farm products
- (e) “*Employ*” ~~includes~~ MEANS to suffer or permit to work.
- (f) “*Wage*” ~~paid to any employee shall~~ meanS the remuneration or earnings, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the same, which is payable ~~by an employer~~ to an employee BY AN EMPLOYER under a written or unwritten contract of employment for work done or to be done, or for services rendered or to be rendered and includes the fair and reasonable value, as determined by the ~~Secretary of Labor and Employment~~ SOLE, of board, lodging, or other facilities customarily furnished by the employer to the employee. “*Fair and reasonable value*” shall not include any profit to the employer, or to any person affiliated with the employer. (97a)

Chapter II

MINIMUM WAGE RATES

Art. 80. ~~Regional~~NATIONAL Minimum Wages. The NATIONAL minimum wage rates for agricultural and non-agricultural employees and workers ~~in each and every region of the country~~ shall be those prescribed by the ~~Regional Tripartite Wages and Productivity Boards~~. NATIONAL WAGES AND PRODUCTIVITY COMMISSION. (99a)

Art. 81. Prohibition against Elimination or Diminution of Benefits. Nothing in this Book shall be construed to eliminate or in any way diminish supplements, ~~or~~ AND other employee benefits being enjoyed at the time of promulgation of this Code. (100a)

Art. 82. Payment by Results. The ~~Secretary of Labor and Employment~~ SOLE shall regulate the payment of wages by results, including pakyaw, piecework, and other non-time work, in order to ensure the payment of fair and reasonable wage rates, preferably through time and motion studies or in consultation with representatives of workers' and employers' organizations. (101a)

Chapter III PAYMENT OF WAGES

Art. 83. Forms of Payment. No employer shall pay the wages of an employee by means of promissory notes, vouchers, coupons, tokens, tickets, chits, or any object other than legal tender, even when expressly requested by the employee.

Payment of wages by check or money order OR DIGITAL MONEY REMITTANCE shall be allowed when such manner of payment is customary on the date of effectivity of this Code, or is necessary because of special circumstances as specified in appropriate regulations to be issued by the ~~Secretary of Labor and Employment~~ SOLE or as stipulated in a collective bargaining agreement. (102a)

Art. 84. Time of Payment. Wages shall be paid at least once every two (2) weeks or twice a month at intervals not exceeding sixteen (16) days. If on account of force majeure or circumstances beyond the employer's control, payment of wages on or within the time herein provided cannot be made, the employer shall pay the wages immediately after such force majeure or circumstances have ceased. No employer shall make payment with less frequency than once a month.

The payment of wages of employees engaged to perform a task which cannot be completed in two (2) weeks shall be subject to the following conditions, in the absence of a collective bargaining agreement or arbitration award:

- (1) That payments are made at intervals not exceeding sixteen (16) days, in proportion to the amount of work completed;
- (2) That final settlement is made upon completion of the work. (103)

Art. 85. Place of Payment. Payment of wages shall be made at or near the place of undertaking, except as otherwise provided by such regulations as the ~~Secretary of Labor and Employment~~ SOLE may prescribe under conditions to ensure greater protection of wages. (104a)

Art. 86. Direct Payment of Wages. Wages shall be paid directly to the workers to whom they are due, except:

- (a) In cases of force majeure rendering such payment impossible or under other special circumstances to be determined by the ~~Secretary of Labor and Employment~~ SOLE in appropriate regulations, in which case, the workerS may be paid through another person under written authority given by the workerS for the purpose;
- (b) IN CASE OF ECONOMIC VIOLENCE AS DEFINED BY SEC. 3, PARAGRAPH D OF REPUBLIC ACT NO. 9262, EMPLOYERS SHALL PAY THE WAGES OF THE WORKERS TO THEIR IMMEDIATE FAMILY WITHOUT THE NECESSITY OF COURT PROCEEDINGS. THE CLAIMANTS, IF THEY ARE ALL OF AGE, SHALL EXECUTE AN AFFIDAVIT ATTESTING TO THEIR RELATIONSHIP TO THE WORKER AND THE FACT THAT THEY ARE MEMBERS OF THE IMMEDIATE FAMILY, TO THE EXCLUSION OF ALL OTHER PERSONS. IF ANY OF THE HEIRS IS A MINOR, THE AFFIDAVIT SHALL BE EXECUTED ON THE MINOR'S BEHALF BY THE NATURAL GUARDIAN OR NEXT-OF-KIN. THE AFFIDAVIT SHALL BE PRESENTED TO THE EMPLOYER WHO SHALL MAKE PAYMENT THROUGH THE SOLE OR THEIR REPRESENTATIVE. THE REPRESENTATIVE OF THE SOLE SHALL ACT AS REFEREE IN DIVIDING THE AMOUNT PAID AMONG THE MEMBERS OF THE FAMILY. THE PAYMENT OF WAGES UNDER THIS ARTICLE SHALL ABSOLVE EMPLOYERS OF ANY FURTHER LIABILITY WITH RESPECT TO THE AMOUNT PAID; or
- (b) (c) Where the worker has died, in which case, the employerS may pay the wages of the deceased worker to the heirs of the latter without the necessity of intestate proceedings. The claimants, if they are all of age, shall execute an affidavit attesting to their relationship to the deceased and the fact that they are his heirs,

to the exclusion of all other persons. If any of the heirs is a minor, the affidavit shall be executed on his THE MINOR'S behalf by his THE MINOR'S natural guardian or next-of-kin. The affidavit shall be presented to the employer who shall make payment through the ~~Secretary of Labor and Employment~~ SOLE or his THEIR representative. The representative of the ~~Secretary of Labor and Employment~~ SOLE shall act as referee in dividing the amount paid among the heirs. The payment of wages under this Article shall absolve the employerS of any further liability with respect to the amount paid. (105a)

Art. 87. Worker Preference in Case of Bankruptcy. In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards their wages and other monetary claims, any provision of law THE CIVIL CODE ON PREFERENCE OF CREDIT AND OTHER LAWS to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before claims of the government and other creditors may be paid. (110a)

Chapter IV

PROHIBITIONS REGARDING WAGES

Art. 88. Attorney's Fees.

- (a) In cases of unlawful withholding of wages, the culpable party may be assessed attorney's fees equivalent to ten percent (10%) of the amount of wages recovered.
- (b) It shall be unlawful for any person to demand or accept, in any judicial, QUASI-JUDICIAL or administrative proceedings for the recovery of wages, attorney's fees which exceed ten percent (10%) of the amount of wages recovered. (111a)

Art. 89. Non-Interference in Disposal of Wages. No employer shall limit or otherwise interfere with the freedom of any employeeS to dispose of his THEIR wages. He EMPLOYERS shall not in any manner force, compel, or oblige his THEIR employees to purchase merchandise, commodities or other property from any other person, or otherwise make use of any store or services of such THE employerS or any other person. (112a)

Art. 90. Wage Deduction. ~~No~~ EmployerS, in ~~his~~ THEIR own behalf or in behalf of any person, shall NOT make any deduction from the wages of ~~his~~ THEIR employees, except:

- (a) In cases where the workerS ARE insured with ~~his~~ THEIR consent by the employerS, and the deduction is to recompense the employerS for the amount paid by ~~him~~ THEM as premium on the insurance;
- (b) For union dues, in cases where the right of the workerS or ~~his~~ THEIR union to check-off has been recognized by the employerS or authorized in writing by the individual worker concerned;
- (c) IN CASES WHERE WORKERS HAVE FAILED TO PROVIDE REGULAR SUPPORT TO THEIR IMMEDIATE LEGITIMATE SPOUSE AND LEGITIMATE OR ILLEGITIMATE CHILDREN, EMPLOYERS MAY PAY THE WAGES TO THE SPOUSE AND CHILDREN WITHOUT THE NECESSITY OF COURT PROCEEDINGS; AND
- (d) In cases where ~~the~~ employerS ~~is~~ ARE authorized by law or regulations issued by the ~~Secretary of Labor and Employment~~ SOLE. (113a)

Art. 91. Deposits for Loss or Damage. ~~No~~ EmployerS shall NOT require ~~his~~ THEIR workerS 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 employerS, except when the employerS ~~is~~ ARE engaged in such trades, occupations or business where the CUSTOMARY practice of making deductions or requiring deposits is a recognized one, OR AS PROVIDED FOR IN THE COLLECTIVE BARGAINING AGREEMENT, or is necessary or desirable as determined by the ~~Secretary of Labor and Employment~~ SOLE in appropriate rules and regulations.

IN ANY CASE, DEDUCTIONS SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

- (a) THAT THE EMPLOYEES CONCERNED ARE CLEARLY SHOWN TO BE RESPONSIBLE FOR THE LOSS OR DAMAGE;
- (b) THAT THE EMPLOYEES ARE GIVEN REASONABLE OPPORTUNITY TO SHOW CAUSE WHY DEDUCTION SHOULD NOT BE MADE;

- (c) THAT THE AMOUNT OF SUCH DEDUCTION IS FAIR AND REASONABLE AND SHALL NOT EXCEED THE ACTUAL LOSS OR DAMAGE; AND
- (d) THAT THE DEDUCTION FROM THE WAGES OF THE EMPLOYEE DOES NOT EXCEED TWENTY PERCENT (20%) OF THE EMPLOYEE'S WAGES IN A WEEK. (114a)

Art. 92. 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 workerS or induce ~~him~~ THEM to give up any part of ~~his~~ THEIR wages by force, stealth, intimidation, threat or by any other means whatsoever ~~without the worker's consent~~. (116a)

Art. 93. Deduction to Ensure Employment. It shall be unlawful to make any deduction from the wages of any employeeS for the benefit of the employerS or ~~his~~ THEIR representativeS or ~~intermediary~~ INTERMEDIARIES as consideration of a promise of employment or retention in employment. (117a)

Art. 94. Retaliatory Measures. It shall be unlawful for an employerS to refuse to pay or reduce the wages and benefits, discharge or in any manner discriminate against any employee who has filed any complaint or instituted any proceeding under this Title OR UNDER THIS CODE OR ANY LAWS or has testified OR HAS REFUSED TO TESTIFY, or is about to testify in such proceedings. RETALIATORY ACTS SHALL INCLUDE REFUSAL TO TESTIFY WHEN REQUIRED, REQUESTED, OR DEMANDED BY AN EMPLOYER. (118a)

Art. 95. False Reporting. It shall be unlawful for any person to make any statement, report, or record filed or kept pursuant to the provisions of this Code knowing such statement, report or record to be false in any material respect. (119)

CHAPTER V CONTRACTING OF SERVICES

Art. 96. Contractor or Subcontractor. Whenever an employerS enters into a contract with another personS for the performance of the former's work, the employees of the contractor and of the latter's contractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractorS or subcontractorS fails to pay the wages of his THEIR employees in accordance with this Code, the employerS shall be jointly and severally liable with his THEIR contractorS or subcontractorS to such employees to the extent of the work performed under the contract, in the same manner and extent that he is THEY ARE liable to employees directly employed by him THEM.

The ~~Secretary of Labor and Employment~~ SOLE may, by appropriate regulations, restrict or prohibit the contracting-out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he THEY may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employerS for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.

There is "labor-only" contracting where the personS supplying workers to an employerS does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such personS are performing activities which are directly related to the principal business of such employerS. In such cases, the personS or intermediaryIES shall be considered merely as an agentS of the employerS who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him THEM. (106a)

Art. 97. Indirect Employer. The provisions of the immediately preceding article shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project. (107)

Art. 98. Posting of Bond. An EmployerS or indirect employerS may require the contractorS or subcontractorS to furnish a bond equal to the cost of labor under contract, on condition that the bond will answer for the wages due the employees should the contractorS or subcontractorS, as the case may be, fail to pay the same. (100a)

Art. 99. Solidary Liability. The provisions of existing laws to the contrary notwithstanding, every employerS or indirect employerS shall be held responsible with his THEIR contractorS or subcontractorS for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under this Chapter, they shall be considered as direct employers. (109a)

Chapter VI

WAGE STUDIES, WAGE AGREEMENTS AND WAGE DETERMINATION

Art. 100. Creation of National Wages and Productivity Commission. There is hereby created a National Wages and Productivity Commission, hereinafter referred to as the Commission, which shall be attached to the ~~Department of Labor and Employment~~ (DOLE) for policy and program coordination. (120)

Art. 101. Powers and Functions of the Commission. The Commission shall have the following powers and functions:

- (a) To act as the national consultative and advisory body to the President of the Philippines and Congress on matters relating to wages, incomes and productivity;
- (b) To formulate policies and guidelines on wages, incomes and productivity improvement at the enterprise, industry and national levels;
- (c) TO DETERMINE AND FIX THE INDUSTRY MINIMUM WAGE RATES AND ISSUE THE CORRESPONDING WAGE ORDERS THROUGH INDUSTRY BOARDS;
- (d) TO RECEIVE, PROCESS AND ACT ON APPLICATIONS FOR EXEMPTION FROM PRESCRIBED WAGE RATES AS PROVIDED BY THIS CODE;
- (e) To prescribe rules and guidelines for the determination of appropriate minimum wage and productivity measures at the regional, provincial, or industry levels;

- (f) TO ESTABLISH INDUSTRY TRIPARTITE WAGES AND PRODUCTIVITY BOARDS IN INDUSTRIES WHERE IT DEEMS APPROPRIATE;
- (g) To undertake studies, researches and surveys necessary for the attainment of its functions and objectives, and to collect and compile GENDER-DISAGGREGATED data and periodically disseminate information on wages, INCLUDING GENDER GAPS IN WAGES, and productivity and other related information, including, but not limited to, employment, cost-of-living, labor costs, investments and returns;
- (h) To review ~~regional wage levels set by~~ PLANS AND PROGRAMS OF the ~~Regional~~ NATIONAL INDUSTRY Tripartite Wages and Productivity Boards to determine if WHETHER these are ~~in accordance~~ consistent with ~~prescribed guidelines and~~ national development plans;
- (i) To exercise technical and administrative supervision over the ~~Regional~~ NATIONAL INDUSTRY Tripartite Wages and Productivity Boards;
- (j) To call, from time to time, a national tripartite conference of representatives of government, workers and employers for the consideration of measures to promote wage rationalization and productivity; and
- (k) To exercise such powers and functions as may be necessary to implement ~~this Act~~ ITS MANDATE UNDER THIS CODE.

The Commission shall be composed of the ~~Secretary of Labor and Employment~~ SOLE as ex-officio CHAIRman, the Director-General of the National Economic and Development Authority (NEDA) as ex-officio vice-CHAIRman, and two (2) members each from workers' and employers' sectors: *PROVIDED*, THAT ONE OF THE MEMBERS OF EACH WORKERS' AND EMPLOYERS' REPRESENTATIVES SHALL BE A WOMAN. THE WORKERS AND EMPLOYERS' REPRESENTATIVES shall be appointed by the President of the Philippines upon recommendation of the ~~Secretary of Labor and Employment~~ SOLE to be made on the basis of the list of nominees submitted by the workers' and employers' sectors, respectively, and who shall serve for a term of five (5) years. The Executive Director of the Commission shall also be a member of the Commission.

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

The Executive Director shall have the same rank, salary, benefits and other emoluments as that of a Department Assistant Secretary, while the Deputy Directors shall have the same rank, salary, benefits and other emoluments as that of a Bureau Director. The members of the Commission representing labor and management shall have the same rank, emoluments, allowances and other benefits as those prescribed by law for labor and management representatives in the Employees' Compensation Commission. (121a)

Art. 102. Creation of ~~Regional~~ NATIONAL INDUSTRY Tripartite Wages and Productivity Boards. ~~There is hereby created Regional Tripartite Wages and Productivity Boards, hereinafter referred to as Regional Boards, in all regions, including autonomous regions as may be established by law. THE COMMISSION SHALL ESTABLISH INDUSTRY TRIPARTITE WAGES AND PRODUCTIVITY BOARDS IN INDUSTRIES WHERE IT DEEMS APPROPRIATE, HEREINAFTER REFERRED TO AS THE NATIONAL INDUSTRY BOARDS. The Commission shall determine the offices/headquarters of the respective Regional INDUSTRY Boards.~~

The ~~Regional~~ INDUSTRY Boards shall have the following powers and functions in their respective ~~territorial jurisdictions~~ INDUSTRIES:

- (a) To develop plans, programs and projects relative to wages, incomes and productivity improvement for their respective ~~regions~~ INDUSTRIES;
- (b) To determine and fix minimum wage rates applicable in their ~~regions, provinces~~ or industries ~~therein~~ and to issue the corresponding wage orders, subject to guidelines issued by the Commission;
- (c) To undertake studies, researches, and surveys necessary for the attainment of their functions, objectives and programs, and to collect and compile data on wages, incomes, productivity and other related information and periodically disseminate the same;
- (d) To coordinate with the other ~~Regional~~ INDUSTRY Boards as may be necessary to attain the policy and intention of this Code;

~~To receive, process and act on applications for exemption from prescribed wage rates as may be provided by law or any Wage Order; and~~

- (e) To exercise such other powers and functions as may be necessary to carry out their mandate under this Code.

~~Implementation of the plans, programs, and projects of the Regional Boards referred to in the second paragraph, letter (a) of this Article, shall be through the respective regional offices of the Department of Labor and Employment within their territorial jurisdiction; *Provided, however,* That the Regional Boards shall have technical supervision over the regional office of the Department of Labor and Employment with respect to the implementation of said plans, programs and projects.~~

Each Regional INDUSTRY Board shall be composed of ~~the Regional Director of the Department of Labor and Employment as chairman, the Regional Directors of the National Economic and Development Authority and the Department of Trade and Industry as vice chairmen~~ and A CHAIR WHO MUST SERVE FULL-TIME FOR A TERM OF THREE (3) YEARS. THE CHAIR MUST HAVE AT LEAST FIVE (5) YEARS' EXPERIENCE IN INDUSTRIAL RELATIONS. IN ADDITION, two (2) members each from workers' and employers' sectors OF THE INDUSTRY CONCERNED ~~who~~ shall be appointed by the President of the Philippines, upon the recommendation of the ~~Secretary of Labor and Employment~~ SOLE, to be made on the basis of the list of nominees submitted by the workers' and employers' sectors, respectively, and who shall serve for a term of ~~five~~ THREE (3) years.

Each ~~Regional~~ INDUSTRY Board to be headed by its chairman shall be assisted by a Secretariat. (122a)

Art. 103. Wage Order. Whenever conditions so warrant, the ~~Regional Board~~ COMMISSION AND INDUSTRY BOARDS shall investigate and study all pertinent facts; and based on the standards and criteria herein prescribed, shall proceed to determine whether a Wage Order should be issued. Any such Wage Order shall take effect after fifteen (15) days from its complete publication in at least ~~one~~ TWO (2) newspaperS of general circulation ~~in the region~~ AND A COPY SHALL BE

DEPOSITED WITH THE OFFICE OF NATIONAL ADMINISTRATIVE REGISTER (ONAR).

In the performance of its wage-determining functions, the ~~Regional Board~~ COMMISSION AND INDUSTRY BOARDS shall conduct public hearings/consultations, giving notices to employees' and employers' groups, ~~provincial, city and municipal officials~~ and other interested parties.

Any party aggrieved by the Wage Order issued by the ~~Regional Board~~ INDUSTRY BOARDS may appeal such order to the Commission within ten (10) calendar days from the publication of such order. It shall be mandatory for the Commission to decide such appeal within sixty (60) calendar days from the filing thereof. WAGE ORDERS ISSUED, AFFIRMED OR MODIFIED BY THE COMMISSION SHALL NOT BE APPEALABLE.

The filing of the appeal does not stay the order unless the person appealing such order shall file with the Commission, an undertaking with a surety or sureties satisfactory to the Commission for the payment to the employees affected by the order of the corresponding increase, in the event such order is affirmed. (As amended by Republic Act No. 6727, June 9, 1989) (123a)

Art. 104. Standards/Criteria for Minimum Wage Fixing. The ~~regional~~ NATIONAL minimum wages to be established by the ~~Regional Boards~~ COMMISSION OR INDUSTRY BOARDS shall be as nearly adequate as is economically feasible to ~~maintain the minimum standards of living necessary for the health, efficiency and general well-being of the employees~~ REALIZE THE CONSTITUTIONAL GUARANTEE OF A LIVING WAGE within the framework of the national economic and social development program. In the determination of such national minimum wage, the ~~Regional Boards~~ COMMISSION OR INDUSTRY BOARDS shall, among other relevant factors, consider the following:

- (a) The demand for living wages;
- (b) Wage adjustment vis-à-vis the consumer price index;
- (c) The cost of living and changes or increases ~~therein~~;
- (d) The needs of workers and their families;

~~The need to induce industries to invest in the countryside;~~

- (e) Improvements in standards of living;
- (f) The prevailing wage levels;
- (g) Fair return of the capital invested and capacity to pay of employers;
- (h) Effects on employment generation and family income; ~~and~~
- (i) The equitable distribution of income and wealth along the imperatives of economic and social development; AND
- (j) REGIONAL CIRCUMSTANCES, IF WARRANTED.

THE MINIMUM WAGE ISSUED BY AN INDUSTRY BOARD MAY NOT BE UNIFORM FOR THE INDUSTRY IF WARRANTED BY REGIONAL CIRCUMSTANCES.

The wages prescribed in accordance with the provisions of this Title shall be the standard prevailing NATIONAL minimum wages ~~in every region~~. These wages may include wages varying ~~with industries provinces or localities if in the judgment of the Regional Board, conditions make such local differentiation proper and necessary to effectuate the purpose of this Title~~ DEPENDING ON THE INDUSTRY.

~~Any~~ PersonS, ~~company~~ COMPANIES, corporationS, partnershipS or ~~any~~ other entity ENTITIES engaged in business shall file and register annually with the Commission and the ~~National Statistics Office~~ PHILIPPINE STATISTICS AUTHORITY, an itemized listing of their labor component, specifying the names of their workers and employees below the managerial level, including ~~learners~~; apprentices and ~~disabled/handicapped~~ workers WITH DISABILITY who were hired under the terms prescribed in the employment contracts, and their corresponding salaries and wages.

Where the application of any prescribed wage increase by virtue of a law or wage order issued by the ~~Regional Board~~ COMMISSION OR INDUSTRY BOARD results in distortions of the wage structure within an establishment, ~~the~~ employerS and ~~the~~ unionS shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their collective bargaining agreement and, if it remains unresolved, through voluntary arbitration. Unless

otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and, if it remains unresolved after ten (10) calendar days of conciliation, shall be referred to the appropriate ~~branch of the National Labor Relations Commission (NLRC)~~ COURT OF LABOR RELATIONS. It shall be mandatory for the ~~NLRC~~ COURT OF LABOR RELATIONS to conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of any increase in prescribed wage rates pursuant to the provisions of law or wage order.

As used herein, a wage distortion shall mean a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

All workers paid by result, including those who are paid on piecework, takay, pakyaw or task basis, shall receive not less than the prescribed wage rates per eight (8) hours of work a day, or a proportion for working less than eight (8) hours.

All recognized ~~learnership~~ and apprenticeship agreements shall be considered automatically modified insofar as their wage clauses are concerned to reflect the prescribed wage rates. (124a)

ART 105. EXEMPTION. OTHER THAN THOSE EXEMPTED BY THIS CODE, ALL WORKERS SHALL BE PAID THE APPLICABLE NATIONAL MINIMUM WAGE.

FINANCIALLY DISTRESSED EMPLOYERS MAY APPLY FOR EXEMPTION FROM THE NATIONAL MINIMUM WAGE WITH THE COMMISSION BUT ONLY FOR A NON-EXTENDIBLE MAXIMUM PERIOD OF THREE (3) YEARS FOR EVERY INCREASE PROVIDED BY WAGE ORDER.

IN THE EVENT THAT APPLICATIONS FOR EXEMPTIONS ARE DENIED, THE COVERED EMPLOYEES SHALL RECEIVE THE APPROPRIATE DIFFERENTIAL PLUS INTEREST OF ONE PERCENT (1%) PER MONTH RETROACTIVE TO THE EFFECTIVITY OF THE APPROPRIATE WAGE ORDER. (new)

Art. 106. Freedom to Bargain. No wage order shall be construed to prevent workers in particular firms or enterprises or industries from bargaining for higher wages with their respective employers. (125)

Art. 107. Prohibition against Injunction. No preliminary or permanent injunction or temporary restraining order may be issued by any court, tribunal or other entity against any proceedings before the Commission or the ~~Regional~~ INDUSTRY BOARDS. (126a)

Art. 108. Non-Diminution of Benefits. No wage order issued by any ~~Regional Board~~ INDUSTRY BOARD shall provide for wage rates lower than the statutory minimum wage rates prescribed by Congress. (127a)

Chapter VII

ADMINISTRATION AND ENFORCEMENT

Art. 109. Visitorial and Enforcement Power. (a) The ~~Secretary of Labor and Employment~~ SOLE or his THEIR duly authorized representatives, including labor regulation officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which

may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

(b) Notwithstanding the provisions of Articles ~~129 and 217~~ 110 AND 210 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the SOLE or ~~his~~ THEIR duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The ~~Secretary~~ SOLE or ~~his~~ THEIR duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection. WHERE AN ISSUE ON THE EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP IS RAISED, HOWEVER, THE SOLE HAS THE POWER TO DETERMINE IN THE INTERIM THE EMPLOYER-EMPLOYEE RELATIONSHIP AND FROM THERE TO DECIDE WHETHER OR NOT TO ISSUE COMPLIANCE ORDERS, SUBJECT TO JUDICIAL REVIEW.

An order issued by the duly authorized representative of the ~~Secretary of Labor and Employment~~ SOLE under this Article may be appealed to the latter. In case said order involves a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the ~~Secretary of Labor and Employment~~ SOLE in the amount equivalent to the monetary award in the order appealed from.

(c) The ~~Secretary of Labor and Employment~~ SOLE may likewise order stoppage of work or suspension of operations of any unit or department of an establishment when non-compliance with the law or implementing rules and regulations poses grave and imminent danger to the health and safety of workers ~~in the workplace~~ OR TO OTHER PERSONS. Within twenty-four (24) hours, a hearing shall be conducted to determine whether an order for the stoppage of work or suspension of operations shall be lifted or not. In case the violation is attributable to the fault of the employer, ~~he~~ THE EMPLOYER shall pay the employees concerned their salaries, ~~or~~ wages AND ALL

OTHER BENEFITS during the period of such stoppage of work or suspension of operation.

(d) It shall be unlawful for any person or entity to obstruct, impede, delay or otherwise render ineffective the orders of the ~~Secretary of Labor and Employment~~ SOLE or his THEIR duly authorized representatives issued pursuant to the authority granted under this Article, and no ~~inferior~~ LOWER court or entity shall issue temporary or permanent injunction or restraining order or otherwise assume jurisdiction over any case involving the enforcement orders issued in accordance with this Article.

(e) Any government employee found guilty of violation of, or abuse of authority, under this Article shall, after appropriate administrative investigation, be subject to summary dismissal from the service, WITHOUT PREJUDICE TO THE FILING OF APPROPRIATE CRIMINAL AND CIVIL CASES.

(f) ~~The Secretary of Labor and Employment may, by appropriate regulations, require~~ Employers SHALL, FOR A PERIOD OF FIVE (5) YEARS, to keep and maintain such employment records as may be necessary in aid of hisTHE visitorial and enforcement powers ~~under this Code~~ OF THE SOLE. (128a)

Art. 110. Recovery of Wages, Simple Money Claims and Other Benefits. Upon complaint of any interested party, the Regional Director of the ~~Department of Labor and Employment~~DOLE or any of the duly authorized hearing officers of the Department is empowered, through summary proceeding and after due notice, to hear and decide any matter involving the recovery of wages and other monetary claims and benefits, including legal interest, owing to an employee ~~or person employed in domestic or household service or househelper under this Code~~, arising from employer-employee relations: *Provided*, That such complaint does not include a claim for reinstatement: *Provided further*, That the aggregate money claims of each employee ~~or househelper~~ does not exceed ~~Five thousand pesos (P5,000.00)~~ TWENTY-FIVE THOUSAND PESOS (P25,000.00). The Regional Director or hearing officer shall decide or resolve the complaint within thirty (30) calendar days from the date of the filing of the same. Any sum thus recovered on behalf of ~~any~~ employees ~~or househelper~~ pursuant to this Article shall be held in a special deposit account by, and shall be paid on order of, the

~~Secretary of Labor and Employment~~ SOLE or the Regional Director directly to the employees ~~or househelper~~ concerned. Any such sum not paid to the employees ~~or househelper~~ because ~~he~~ THEY cannot be located after diligent and reasonable effort to locate ~~him~~ THEM within a period of three (3) years, shall be held as a special fund of the ~~Department of Labor and Employment~~ DOLE to be used exclusively for the amelioration and benefit of workers.

Any decision or resolution of the Regional Director or hearing officer pursuant to this provision may be appealed on the ~~same~~ FOLLOWING grounds:

- (A) IF THERE IS PRIMA FACIE EVIDENCE OF ABUSE OF DISCRETION ON THE PART OF THE REGIONAL DIRECTOR OR HEARING OFFICER;
- (B) IF THE DECISION, ORDER OR AWARD WAS SECURED THROUGH FRAUD OR COERCION, INCLUDING GRAFT AND CORRUPTION;
- (C) IF MADE PURELY ON QUESTIONS OF LAW; AND
- (D) IF SERIOUS ERRORS IN THE FINDINGS OF FACTS ARE RAISED WHICH WOULD CAUSE GRAVE OR IRREPARABLE DAMAGE OR INJURY TO THE APPELLANT.

~~provided in Article 223 of this Code,~~ THE APPEAL SHALL BE FILED within five (5) calendar days from receipt of a copy of said decision or resolution, to the ~~National Labor Relations Commission~~ COURT OF LABOR RELATIONS which shall resolve the appeal within ten (10) calendar days from the submission of the last pleading required or allowed under its rules.

The ~~Secretary of Labor and Employment~~ SOLE or ~~his~~ THE duly authorized representative may supervise the payment of unpaid wages and other monetary claims and benefits, including legal interest, found owing to ~~any~~ employees. (129a)

Title III

**WORKING CONDITIONS FOR SPECIAL GROUPS OF EMPLOYEES
WORKERS**

**Chapter I
EMPLOYMENT OF ~~WOMEN~~ CHILDREN**

Art. 111. Minimum Employable Age.

- ~~(a) No child-~~(1) CHILDREN below fifteen (15) years of age shall NOT be employed, except when ~~he~~ THEY works directly under the sole responsibility of ~~his~~ THEIR parents or guardian and WHERE ONLY MEMBERS OF THE EMPLOYER'S FAMILY ARE EMPLOYED; *PROVIDED*, THAT THEIR EMPLOYMENT NEITHER ENDANGERS THEIR LIFE, SAFETY, HEALTH AND MORALS, NOR IMPAIRS THEIR NORMAL DEVELOPMENT: *PROVIDED, FURTHER*, THAT THE PARENT OR GUARDIAN SHALL PROVIDE THE SAID CHILDREN WITH THE PRESCRIBED PRIMARY AND SECONDARY EDUCATION; *PROVIDED, FINALLY*, THAT ~~his~~ THEIR employment does not in any way interfere with ~~his~~ THEIR schooling.
- (2) CHILDREN BELOW FIFTEEN (15) YEARS OF AGE MAY BE EMPLOYED IN PUBLIC ENTERTAINMENT OR INFORMATION THROUGH CINEMA, THEATER, RADIO, TELEVISION OR OTHER MEDIA WHERE IT IS ESSENTIAL: *PROVIDED*, THE EMPLOYMENT CONTRACT IS CONCLUDED BY THE CHILDREN'S PARENTS OR LEGAL GUARDIAN, WITH THE EXPRESS AGREEMENT OF THE CHILDREN CONCERNED, IF POSSIBLE, AND THE APPROVAL OF THE DOLE: AND *PROVIDED*, THAT THE FOLLOWING REQUIREMENTS IN ALL INSTANCES ARE STRICTLY COMPLIED WITH:
- (a) THE EMPLOYER SHALL ENSURE THE PROTECTION, HEALTH, SAFETY, MORALS AND NORMAL DEVELOPMENT OF THE CHILD;
 - (b) THE EMPLOYER SHALL INSTITUTE MEASURES TO PREVENT THE CHILD'S EXPLOITATION OR DISCRIMINATION TAKING INTO ACCOUNT THE SYSTEM AND LEVEL OF REMUNERATION, AND THE DURATION AND ARRANGEMENT OF WORKING TIME; AND
 - (c) 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.

- (3) CHILDREN BELOW EIGHTEEN (18) YEARS OF AGE MAY BE EMPLOYED AS MODELS IN COMMERCIALS OR ADVERTISEMENTS, *PROVIDED*, THAT CHILDREN SHALL NOT APPEAR IN COMMERCIALS OR ADVERTISEMENTS PROMOTING ALCOHOLIC BEVERAGES, INTOXICATING DRINKS, TOBACCO AND ITS BYPRODUCTS AND VIOLENCE.

IN THE EXCEPTIONAL CASES IN PARAGRAPHS 2 AND 3, WHERE SUCH CHILDREN MAY BE EMPLOYED, EMPLOYERS SHALL FIRST SECURE, BEFORE ENGAGING SUCH CHILDREN, A WORK PERMIT FROM THE DOLE WHICH SHALL ENSURE OBSERVANCE OF THE ABOVE REQUIREMENTS.

THE DOLE SHALL PROMULGATE RULES AND REGULATIONS NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF THIS SECTION.

- (b) (4) Any person fifteen (15) and BELOW eighteen (18) years of age may be employed for such number of hours and such periods of the day as ~~determined by the Secretary of Labor and Employment in appropriate regulations~~ PURSUANT TO REPUBLIC ACT NO. 9231.

(e) The foregoing provisions 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 as determined by the Secretary of Labor and Employment~~ CONSIDERED AS WORST FORMS OF CHILD LABOR UNDER REPUBLIC ACT NO. 9231. (137a)

Chapter II

EMPLOYMENT OF DOMESTIC WORKERS

ART. 112. NON-APPLICABILITY TO DOMESTIC WORKERS. DOMESTIC WORKERS SHALL BE COVERED BY R.A. NO. 10361. (new)

Chapter III

EMPLOYMENT OF HOMEWORKERS

ART. 113. Coverage. This CHAPTER shall apply to persons who perform industrial homework for employers, OR contractors. (new)

ART. 114. DEFINITIONS. AS USED IN THIS CHAPTER, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED HEREUNDER:

- (a) “*INDUSTRIAL HOMEWORK*” IS A SYSTEM OF PRODUCTION UNDER WHICH WORK FOR EMPLOYERS OR CONTRACTORS IS CARRIED OUT BY HOMEWORKERS AT THEIR HOME. MATERIALS MAY OR MAY NOT BE FURNISHED BY THE EMPLOYERS OR CONTRACTORS. IT DIFFERS FROM REGULAR FACTORY PRODUCTION PRINCIPALLY IN THAT, IT IS A DECENTRALIZED FORM OF PRODUCTION..
- (b) “*INDUSTRIAL HOMEWORKER*” MEANS WORKERS ENGAGED IN INDUSTRIAL HOMEWORK.
- (c) “*HOME*” MEANS ANY ROOM, HOUSE, APARTMENT OR OTHER PREMISES USED REGULARLY, IN WHOLE OR IN PART, AS DWELLING PLACE, EXCEPT THOSE SITUATED WITHIN THE PREMISES OR COMPOUND OF EMPLOYERS OR CONTRACTORS AND THE WORK PERFORMED THEREIN IS UNDER THE ACTIVE OR PERSONAL SUPERVISION BY OR FOR THE LATTER.
- (d) “*EMPLOYERS*” ARE NATURAL OR ARTIFICIAL PERSONS WHO, FOR THEIR OWN ACCOUNT OR BENEFIT, OR ON BEHALF OF ANY PERSON RESIDING OUTSIDE THE PHILIPPINES, DIRECTLY OR INDIRECTLY, OR THROUGH ANY EMPLOYEE, AGENT, OR ANY OTHER PERSON:
 - (1) DELIVER OR CAUSE TO BE DELIVERED ANY GOODS, ARTICLES OR MATERIALS TO BE PROCESSED OR FABRICATED IN OR ABOUT A HOME AND THEREAFTER TO BE RETURNED OR TO BE DISPOSED OF OR DISTRIBUTED IN ACCORDANCE WITH THEIR DIRECTION; OR
 - (2) SELL ANY GOODS, ARTICLES OR MATERIALS FOR THE PURPOSE OF HAVING SUCH GOODS OR ARTICLES PROCESSED IN OR

ABOUT A HOME AND THEN REPURCHASES THEM THEMSELVES OR THROUGH ANOTHER AFTER SUCH PROCESSING.

- (e) “*CONTRACTOR*” REFERS TO AN ARRANGEMENT WHEREBY A PRINCIPAL AGREES TO FARM OUT TO A CONTRACTOR THE PERFORMANCE OR COMPLETION OF A SPECIFIC JOB OR WORK WITHIN A DEFINITE OR PREDETERMINED PERIOD, REGARDLESS OF WHETHER SUCH JOB OR WORK IS TO BE PERFORMED OR COMPLETED WITHIN OR OUTSIDE THE PREMISES OF THE PRINCIPAL.
- (f) “*PROCESSING*” MEANS MANUFACTURING, FABRICATING, FINISHING, REPAIRING, ALTERING, PACKING, WRAPPING OR HANDLING IN ANY WAY CONNECTED WITH THE PRODUCTION OR PREPARATION OF AN ARTICLE OR MATERIAL.
- (g) “*DEPARTMENT*” MEANS THE DEPARTMENT OF LABOR AND EMPLOYMENT. (new)

ART. 115. SELF-ORGANIZATION. HOMEWORKERS SHALL HAVE THE RIGHT TO FORM, JOIN OR ASSIST ORGANIZATIONS OF THEIR OWN CHOOSING, IN ACCORDANCE WITH LAW. (new)

ART. 116. REGISTRATION OF HOMEWORKERS’ ORGANIZATION. ANY APPLICANT HOMEWORKER ORGANIZATION OR ASSOCIATION SHALL ACQUIRE LEGAL PERSONALITY, AND SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES GRANTED BY LAW TO LEGITIMATE LABOR ORGANIZATIONS UPON ISSUANCE OF THE CERTIFICATE OF REGISTRATION BASED ON THE FOLLOWING REQUIREMENTS:

- (a) PAYMENT OF REGISTRATION FEE AS DETERMINED BY THE DEPARTMENT;
- (b) THE NAMES OF ITS OFFICERS, THEIR ADDRESSES, THE PRINCIPAL ADDRESS OF THE HOMEWORKERS ORGANIZATION, THE MINUTES OF THE ORGANIZATIONAL MEETINGS AND THE LIST OF WORKERS WHO PARTICIPATED IN SUCH MEETINGS;

- (c) THE NAMES OF ALL ITS MEMBERS COMPRISING AT LEAST TWENTY PERCENT (20%) OF ALL THE WORKERS IN THE BARGAINING UNIT WHERE IT SEEKS TO OPERATE, IF APPLICABLE;
- (d) IF THE APPLICANT HAS BEEN IN EXISTENCE FOR ONE OR MORE YEARS, COPIES OF ITS ANNUAL FINANCIAL REPORTS; AND
- (e) FOUR COPIES OF THE CONSTITUTION AND BY-LAWS OF THE APPLICANT ORGANIZATION, THE MINUTES OF ITS ADOPTION OR RATIFICATION AND THE LIST OF MEMBERS WHO PARTICIPATED IN IT. (new)

ART. 117. REGISTRATION OF EMPLOYERS AND CONTRACTORS. THE DEPARTMENT SHALL, AS SOON AS POSSIBLE, CONDUCT CONSULTATION MEETINGS WITH GOVERNMENT AGENCIES REQUIRING REGISTRATION OF EMPLOYERS AND DETERMINE IF THE DATA BEING SUPPLIED BY THE REGISTRATION FORMS OF SUCH AGENCIES ARE THE SAME AS OR SIMILAR TO THOSE NEEDED BY THE DEPARTMENT IN THE IMPLEMENTATION OF THIS REGULATIONS. IF THE REGISTRATION FORMS OF OTHER AGENCIES DO NOT PROVIDE THE DATA NEEDED BY DOLE, IT SHALL INQUIRE INTO THE POSSIBILITY OF ADOPTING A COMMON REGISTRATION FORM WITH OTHER AGENCIES THAT WILL PROVIDE THE DATA NEEDED BY ALL THE AGENCIES CONCERNED.

IN THE CASE OF CONTRACTORS, HOWEVER, THE REGISTRATION SHALL BE PURSUANT TO DOLE D.O. No. 174-17. (new)

ART. 118. PAYMENT FOR HOMEWORK. IMMEDIATELY UPON RECEIPT OF THE FINISHED GOODS OR ARTICLES, EMPLOYERS SHALL PAY THE HOMEWORKER OR THE CONTRACTOR, AS THE CASE MAY BE, FOR THE WORK PERFORMED LESS CORRESPONDING HOMEWORKERS' SHARE OF SSS, THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH), AND THE HOME DEVELOPMENT MUTUAL FUND OR PAG-IBIG, AND ECC PREMIUM CONTRIBUTIONS WHICH SHALL BE REMITTED BY THE EMPLOYERS OR CONTRACTORS TO THE APPROPRIATE AGENCIES WITH THE EMPLOYERS' SHARE. HOWEVER, WHERE PAYMENT IS MADE TO A

CONTRACTOR, THE HOMEWORKER SHALL LIKEWISE BE PAID IMMEDIATELY AFTER THE GOODS OR ARTICLES HAVE BEEN COLLECTED FROM THE WORKERS. (new)

ART. 119. STANDARD RATES. AT THE INITIATIVE OF THE DEPARTMENT OR UPON PETITION OF ANY INTERESTED PARTY, THE SOLE OR THEIR AUTHORIZED REPRESENTATIVE SHALL ESTABLISH THE STANDARD OUTPUT RATE OR STANDARD MINIMUM RATE IN APPROPRIATE ORDERS FOR THE PARTICULAR WORK OR PROCESSING TO BE PERFORMED BY THE HOMEWORKERS.

THE STANDARD OUTPUT RATES OR PIECE RATES SHALL BE DETERMINED THROUGH ANY OF THE FOLLOWING PROCEDURES:

- (A) TIME AND MOTION STUDIES;
- (B) AN INDIVIDUAL/COLLECTIVE AGREEMENT BETWEEN EMPLOYERS AND WORKERS AS APPROVED BY THE SOLE OR THEIR AUTHORIZED REPRESENTATIVE;
- (C) CONSULTATION WITH REPRESENTATIVES OF EMPLOYERS AND WORKERS ORGANIZATIONS IN A TRIPARTITE CONFERENCE CALLED BY THE SOLE.

THE TIME AND MOTION STUDIES SHALL BE UNDERTAKEN BY THE REGIONAL OFFICE HAVING JURISDICTION OVER THE LOCATION OF THE PREMISES USED REGULARLY BY THE HOMEWORKERS. HOWEVER, WHERE THE JOB OPERATION OR ACTIVITY IS BEING LIKEWISE PERFORMED BY REGULAR FACTORY WORKERS AT THE FACTORY OR PREMISES OF EMPLOYERS, THE TIME AND MOTION STUDIES SHALL BE CONDUCTED BY THE REGIONAL OFFICE HAVING JURISDICTION OVER THE LOCATION OF THE MAIN UNDERTAKING OR BUSINESS OF EMPLOYERS. PIECE RATES ESTABLISHED THROUGH TIME AND MOTION STUDIES CONDUCTED AT THE FACTORY OR MAIN UNDERTAKING OF THE EMPLOYER SHALL BE APPLICABLE TO THE HOMEWORKERS PERFORMING THE SAME JOB ACTIVITY. THE STANDARD PIECE RATE

SHALL BE ISSUED BY THE REGIONAL OFFICE WITHIN ONE MONTH AFTER A REQUEST HAS BEEN MADE AT SAID OFFICE.

UPON REQUEST OF THE REGIONAL OFFICE, THE BUREAU OF WORKING CONDITIONS SHALL PROVIDE ASSISTANCE IN THE CONDUCT OF SUCH STUDIES. NON-COMPLIANCE WITH THE ESTABLISHED STANDARD RATES CAN BE THE SUBJECT OF COMPLAINT WHICH SHALL BE FILED AT THE REGIONAL OFFICE. (new)

ART. 120. DEDUCTIONS. EMPLOYERS OR CONTRACTORS SHALL NOT MAKE ANY DEDUCTION FROM HOMEWORKERS' EARNINGS FOR THE VALUE OF MATERIALS WHICH HAVE BEEN LOST, DESTROYED, SOILED OR OTHERWISE DAMAGED UNLESS THE FOLLOWING CONDITIONS ARE MET:

- (a) THE HOMEWORKERS CONCERNED ARE CLEARLY SHOWN TO BE RESPONSIBLE FOR THE LOSS OR DAMAGE;
- (b) THE HOMEWORKERS ARE 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 HOMEWORKER'S EARNINGS IN A WEEK. (new)

ART. 121. CONDITIONS FOR PAYMENT OF WORK.

- (a) EMPLOYERS MAY REQUIRE HOMEWORKERS TO REDO THE WORK WHICH HAS BEEN IMPROPERLY EXECUTED WITHOUT HAVING TO PAY THE STIPULATED RATE AGAIN.
- (b) EMPLOYERS OR CONTRACTORS NEED NOT PAY HOMEWORKERS FOR ANY WORK WHICH HAS BEEN DONE ON GOODS AND ARTICLES WHICH HAVE BEEN RETURNED FOR REASONS ATTRIBUTABLE TO THE FAULT OF THE HOMEWORKER. (new)

ART. 122. VISITORIAL AND ENFORCEMENT POWER. THE REGIONAL DIRECTOR IN ACCORDANCE WITH ART. 109 SHALL HAVE THE POWER TO ORDER AND ADMINISTER COMPLIANCE WITH THE PROVISIONS OF THE LAW AND REGULATIONS AFFECTING THE TERMS AND CONDITIONS OF EMPLOYMENT OF HOMEWORKERS AND SHALL HAVE THE JURISDICTION IN CASES INVOLVING VIOLATIONS OF THIS CODE, ANY LABOR LAW, WAGE ORDER OR RULES AND REGULATIONS ISSUED PURSUANT TO THIS ARTICLE.

COMPLAINTS FOR VIOLATIONS OF LABOR STANDARDS AND THE TERMS AND CONDITIONS OF EMPLOYMENT INVOLVING MONEY CLAIMS OF HOMEWORKERS IN AN AMOUNT OF NOT MORE THAN FIVE THOUSAND PESOS (P5,000.00) PER HOMEWORKER SHALL BE HEARD AND DECIDED BY THE REGIONAL DIRECTOR PURSUANT TO ART. 110. (new)

ART. 123. DUTIES OF EMPLOYERS AND CONTRACTORS. WHENEVER EMPLOYERS CONTRACT WITH ANOTHER FOR THE PERFORMANCE OF THE EMPLOYER'S WORK, IT SHALL BE THE DUTY OF SUCH EMPLOYERS TO PROVIDE IN SUCH CONTRACT THAT THE EMPLOYEES OR HOMEWORKERS OF THE CONTRACTOR SHALL BE PAID IN ACCORDANCE WITH THE PROVISIONS OF THIS CODE. IN THE EVENT THAT THE CONTRACTORS FAIL TO PAY THE WAGES OR EARNINGS OF THEIR EMPLOYEES OR HOMEWORKERS AS SPECIFIED IN THIS RULE, SUCH EMPLOYERS SHALL BE JOINTLY AND SEVERALLY LIABLE WITH THE CONTRACTORS TO THE WORKERS OF THE LATTER, TO THE EXTENT THAT SUCH WORK IS PERFORMED UNDER SUCH CONTRACT, IN THE SAME MANNER AS IF THE EMPLOYEES OR HOMEWORKERS WERE DIRECTLY ENGAGED BY THE EMPLOYERS. THE EMPLOYERS, OR CONTRACTORS, AS THE CASE MAY BE, SHALL ASSIST THE HOMEWORKERS IN THE MAINTENANCE OF BASIC SAFE AND HEALTHFUL WORKING CONDITIONS AT THE HOMEWORKERS' PLACE OF WORK. (new)

ART. 124. EMPLOYMENT OF CHILDREN AS HOMEWORKERS. THE PROVISIONS GOVERNING THE EMPLOYMENT OF MINORS UNDER THIS

CODE AS WELL AS THE PROVISIONS ON WORKING CHILDREN UNDER REPUBLIC ACT NO. 9231 SHALL GOVERN THE EMPLOYMENT OF CHILDREN AS HOMEWORKERS. (new)

ART. 125. PROHIBITIONS FOR HOMEWORK. NO HOMEWORK SHALL BE PERFORMED ON THE FOLLOWING:

- (1) EXPLOSIVES, FIREWORKS AND ARTICLES OF LIKE CHARACTER;
- (2) DRUGS AND POISONS; AND
- (3) OTHER ARTICLES, THE PROCESSING OF WHICH REQUIRES EXPOSURE TO TOXIC SUBSTANCES. (new)

ART. 126. ASSISTANCE TO REGISTERED HOMEWORKERS' ORGANIZATIONS, EMPLOYERS, AND CONTRACTORS. THE REGIONAL OFFICE SHALL PROVIDE TECHNICAL ASSISTANCE TO REGISTERED HOMEWORKERS' ORGANIZATIONS, EMPLOYERS, AND CONTRACTORS RELATIVE TO THE FOLLOWING:

- (a) INFORMATION ON WAGES AND OTHER BENEFITS;
- (b) CONDUCT OF TIME AND MOTION STUDIES TO ENSURE FAIR AND REASONABLE OUTPUT RATES;
- (c) SKILLS TRAINING;
- (d) MAINTENANCE OF SAFE AND HEALTHFUL CONDITIONS AT THE WORKPLACE.
- (e) INFORMATION ON ENTITLEMENT TO SOCIAL SECURITY AND EMPLOYEES' COMPENSATION BENEFITS;
- (f) FACILITATION OF LOANS WITH GOVERNMENT AND NON-GOVERNMENT FINANCIAL INSTITUTIONS; AND
- (g) INFORMATION ON HOW TO AVAIL THEMSELVES OF HOUSING PROGRAMS UNDER PAG-IBIG. (new)

Chapter IV
EMPLOYMENT OF NIGHT WORKERS

Art. 127. Coverage. This chapter shall apply to all persons, who shall be employed or permitted or suffered to work at night, except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation, during a period of not less than seven (7) consecutive hours, including the interval from midnight to five o'clock in the morning, to be determined by the ~~Secretary of Labor and Employment~~ SOLE, after consulting the workers' representatives/labor organizations and employers.

'Night worker' means any employed person whose work requires performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the ~~Secretary of Labor and Employment~~ SOLE after consulting the workers' representatives/labor organizations and employers. (154a)

Art. 128. Health Assessment. At their request, workers shall have the right to undergo a health assessment without charge and to receive advice on how to reduce or avoid health problems associated with their work:

- (a) Before taking up an assignment as night workers;
- (b) At regular intervals during such an assignment; and
- (c) If they experience health problems during such, an assignment which are not caused by factors other than the performance of night work.

With the exception of a finding of unfitness for night work, the findings of such assessments shall not be transmitted to others without the workers' consent and shall not be used to their detriment. (155)

Art. 129. Mandatory Facilities. Suitable first-aid facilities shall be made available for workers performing night work, including arrangements where such workers, where necessary, can be taken immediately to a place for appropriate treatment. The employers are likewise required to provide safe and healthful working conditions, sleeping or resting quarters in the establishment, and transportation from the work premises to the nearest point of their residence ~~subject to exceptions and guidelines to be~~ AND SUCH OTHER ADEQUATE OR REASONABLE FACILITIES AS MAY BE provided by the DOLE. (156a)

Art. 130. Transfer. Night workers who are certified as unfit for night work, due to health reasons, shall be transferred, whenever practicable, to a similar job for which they are fit to work.

If such transfer to a similar job is not practicable, these workers shall be granted the same benefits as other workers who are unable to work, or to secure employment during such period.

A Night workerS certified as temporarily unfit for night work shall be given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for reasons of health. (157a)

Art. 131. Women Night Workers. Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work:

- (a) Before and after childbirth, for a period of at least sixteen (16) weeks, which shall be divided between the time before and after childbirth;
- (b) For additional periods, in respect of which a medical certificate is produced stating that said additional periods are necessary for the health of the mother or child:
 - (1) During pregnancy;
 - (2) During a specified time beyond the period, after childbirth is fixed pursuant to subparagraph (a) above, the length of which shall be determined by the DOLE after consulting the labor organizations and employers.

During the periods referred to in this article:

- (1) ~~A woman worker~~ WOMEN WORKERS shall not be dismissed or given notice of dismissal, except for just or authorized causes provided for in this Code that are not connected with pregnancy, childbirth and childcare responsibilities.
- (2) ~~A woman worker~~ WOMEN WORKERS shall not lose the benefits regarding ~~her~~ THEIR status, seniority, and access to promotion which may attach to ~~her~~ THEIR regular night work position.

Pregnant women and nursing mothers may be allowed to work at night only if a competent physician, other than the company physician, shall certify their fitness to render night work, and specify, in the case of pregnant employees, the period of the pregnancy that they can safely work.

The measures referred to in this article may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave.

The provisions of this article shall not leave the effect of reducing the protection and benefits connected with maternity leave under existing laws. (158a)

Art. 132. Compensation. The compensation for night workers in the form of working time, pay or similar benefits shall recognize the exceptional nature of night work. (159)

Art. 133. Social Services. Appropriate social services shall be provided for night workers and, where necessary, for workers performing night work. (160)

Art. 134. Night Work Schedules. Before introducing work schedules requiring the services of night workers, ~~the employer~~ EMPLOYERS shall consult the workers' representatives/labor organizations concerned on the details of such schedules and the forms of organization of night work that are best adapted to the establishment and its personnel, as well as on the occupational health measures and social services which are required. In establishments employing night workers, consultation shall take place regularly. (161a)

Chapter V

~~Handicapped Workers~~ EMPLOYMENT OF WORKERS WITH DISABILITIES

Art. 135. Definition OF TERMS. ~~Handicapped workers are those whose earning capacity is impaired by age or physical or mental deficiency or injury.~~ FOR PURPOSES OF THIS ACT, THESE TERMS ARE DEFINED AS FOLLOWS:

- (a) ~~DISABLED PERSONS~~ "WORKERS WITH DISABILITY" ARE THOSE SUFFERING FROM RESTRICTION OF DIFFERENT ABILITIES, AS A RESULT OF A MENTAL, PHYSICAL OR SENSORY IMPAIRMENT, TO

PERFORM AN ACTIVITY IN THE MANNER OR WITHIN THE RANGE CONSIDERED NORMAL FOR A HUMAN BEING;

- (b) “*IMPAIRMENT*” IS ANY LOSS, DIMINUTION OR ABERRATION OF PSYCHOLOGICAL, PHYSIOLOGICAL, OR ANATOMICAL STRUCTURE OR FUNCTION;
- (c) “*DISABILITY*” IS A CONDITION WHICH SHALL MEAN (1) AN ~~PHYSICAL OR MENTAL~~ IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE PSYCHOLOGICAL, PHYSIOLOGICAL OR ANATOMICAL FUNCTION OF AN INDIVIDUAL OR ACTIVITIES OF SUCH INDIVIDUAL; (2) A RECORD OF SUCH AN IMPAIRMENT; OR (3) BEING REGARDED AS HAVING SUCH AN IMPAIRMENT;
- (d) “*HANDICAP*” REFERS TO A DISADVANTAGE FOR A GIVEN INDIVIDUAL RESULTING FROM AN IMPAIRMENT, THAT LIMITS OR PREVENTS THE FUNCTIONS OR ACTIVITY, THAT IS CONSIDERED NORMAL GIVEN THE AGE, SEX AND GENDER OF THE INDIVIDUAL.

(78a)

ART. 136. EQUAL OPPORTUNITY FOR EMPLOYMENT. NO ~~PERSON~~ WORKER WITH DISABILITY SHALL BE DENIED ACCESS TO OPPORTUNITIES FOR SUITABLE EMPLOYMENT. A ~~QUALIFIED~~ EMPLOYEE WITH DISABILITY SHALL BE SUBJECTED TO THE SAME TERMS AND CONDITIONS OF EMPLOYMENT, ~~AND THE SAME~~ COMPENSATION, PRIVILEGES, BENEFITS, FRINGE BENEFITS, INCENTIVES OR ALLOWANCES AS A QUALIFIED ABLE-BODIED PERSON TAKING INTO CONSIDERATION THE CONCEPT OF UNIVERSAL DESIGN AS DEFINED BY THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITY.

QUALIFIED WORKERS WITH DISABILITY SHALL MEAN INDIVIDUALS WITH DISABILITY WHO WITH REASONABLE ACCOMMODATIONS CAN PERFORM THE ESSENTIAL FUNCTIONS OF THE EMPLOYMENT POSITION THAT SUCH INDIVIDUALS HOLD OR DESIRE. EMPLOYERS SHALL BE REQUIRED TO PREPARE A WRITTEN DESCRIPTION OF ESSENTIAL

FUNCTIONS OF THE JOB AND ADVERTISE THE SAME WHICH SHALL BE THE BASIS FOR SELECTION AND HIRING OF APPLICANTS.

AT LEAST ONE PERCENT (1%) OF ALL POSITIONS IN ALL GOVERNMENT AGENCIES, OFFICES OR CORPORATIONS SHALL BE RESERVED FOR ~~PERSONS~~ WORKERS WITH DISABILITY: *PROVIDED*, THAT PRIVATE CORPORATIONS WITH MORE THAN ONE HUNDRED (100) EMPLOYEES ARE ENCOURAGED TO RESERVE AT LEAST ONE PERCENT (1%) OF ALL POSITIONS FOR PERSONS WITH DISABILITY.

FOR PURPOSES OF THIS ARTICLE, PERSONS WITH DISABILITIES INCLUDE THOSE WHO HAVE LONG-TERM PHYSICAL, MENTAL, INTELLECTUAL, OR SENSORY IMPAIRMENTS WHICH IN INTERACTION WITH VARIOUS BARRIERS MAY HINDER THEIR FULL AND EFFECTIVE PARTICIPATION IN SOCIETY ON AN EQUAL BASIS WITH OTHERS.

PERSONS WITH DISABILITIES ARE ALSO ELIGIBLE AS APPRENTICES DEPENDING ON THE SKILLS AND CAPACITY TO PERFORM THE NEEDED JOB FUNCTIONS OF THE EMPLOYER. HOWEVER, ASSESSMENT OF THEIR CAPACITIES AND SKILLS SHALL BE CONDUCTED BY DSWD OR TESDA AS THE CASE MAY BE IN ORDER TO DETERMINE THE QUALIFICATIONS AND FITNESS OF THE PERSONS WITH DISABILITIES, *PROVIDED FURTHER THAT AFTER THE LAPSE OF THE PERIOD OF APPRENTICESHIP, IF FOUND SATISFACTORY IN THE JOB PERFORMANCE, THEY SHALL BE ELIGIBLE FOR REGULAR EMPLOYMENT.* (new)

ART. 137. APPLICABILITY OF THE MAGNA CARTA FOR DISABLED PERSONS. ALL OTHER PROVISIONS OF REPUBLIC ACT NO. 7277, AS AMENDED, WHICH ARE NOT INCONSISTENT HERewith ARE DEEMED ADOPTED. (new)

Title VI

Workers with Family Responsibilities

Chapter I

Facilities for Workers with Family Responsibilities

Art. 138. Facilities for ~~Women~~ WORKERS. ~~The Secretary of Labor and Employment~~ SOLE shall establish standards that will ensure the safety and health of ~~women~~ employees. ~~In appropriate cases, he shall, by regulations, require any employer to:~~

- ~~(a) Provide seats proper for women and permit them to use such seats when they are free from work and during working hours, provided they can perform their duties in this position without detriment to efficiency;~~
- ~~(b) To establish separate toilet rooms and lavatories for men and women and provide at least a dressing room for women;~~
- ~~(c) To~~ THE EMPLOYERS SHALL BE REQUIRED TO establish a nursery in a workplace for the benefit of ~~women~~ employees ~~therein; and~~
- ~~(d) To determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like. (130a)~~

Art. 139. Family Planning Services; Incentives for Family Planning.

- (a) Establishments which are required by law to maintain a clinic or infirmary shall provide free family planning services to their employees which shall include ~~but not be limited to, the application or use of contraceptive pills and intrauterine devices~~ FAMILY PLANNING DEVICES.
- (b) In coordination with other agencies of the government engaged in the promotion of family planning, the ~~Department of Labor and Employment~~ DOLE shall develop and prescribe incentive bonus schemes to encourage family planning among workers in any establishment or enterprise. (132a)

ART. 140. ESTABLISHMENT OF LACTATION STATIONS. IT IS HEREBY MANDATED THAT ALL HEALTH AND NON-HEALTH FACILITIES, ESTABLISHMENTS OR INSTITUTIONS SHALL ESTABLISH LACTATION STATIONS. THE LACTATION STATIONS SHALL BE ADEQUATELY PROVIDED WITH THE NECESSARY EQUIPMENT AND FACILITIES, SUCH AS: LAVATORY FOR HAND-WASHING, UNLESS THERE IS AN EASILY-ACCESSIBLE LAVATORY NEARBY; REFRIGERATION OR APPROPRIATE COOLING FACILITIES FOR STORING EXPRESSED BREASTMILK;

ELECTRICAL OUTLETS FOR BREAST PUMPS; A SMALL TABLE; COMFORTABLE SEATS; AND OTHER ITEMS, THE STANDARDS OF WHICH SHALL BE DEFINED BY THE DEPARTMENT OF HEALTH. THE LACTATION STATION SHALL NOT BE LOCATED IN THE TOILET.

IN ADDITION, ALL HEALTH AND NON-HEALTH FACILITIES, ESTABLISHMENTS OR INSTITUTIONS SHALL TAKE STRICT MEASURES TO PREVENT ANY DIRECT OR INDIRECT FORM OF PROMOTION, MARKETING, AND/OR SALES OF INFANT FORMULA AND/OR BREASTMILK SUBSTITUTES WITHIN THE LACTATION STATIONS, OR IN ANY EVENT OR CIRCUMSTANCES WHICH MAY BE CONDUCTIVE TO THE SAME.

APART FROM THE SAID MINIMUM REQUIREMENTS, ALL HEALTH AND NON-HEALTH FACILITIES, ESTABLISHMENTS OR INSTITUTIONS MAY PROVIDE OTHER SUITABLE FACILITIES OR SERVICES WITHIN THE LACTATION STATION, ALL OF WHICH, UPON DUE SUBSTANTIATION, SHALL BE CONSIDERED ELIGIBLE FOR PURPOSES OF SECTION 14 OF ~~THIS~~ ACT REPUBLIC ACT NO. 7600, AS AMENDED. (new)

Chapter II

Workers' Leaves

ART. 141. PATERNITY LEAVE. NOTWITHSTANDING ANY LAW, RULES AND REGULATIONS TO THE CONTRARY, ~~EVERY~~ MARRIED MALE EMPLOYEES IN THE PRIVATE AND PUBLIC SECTORS SHALL BE ENTITLED TO A PATERNITY LEAVE OF AT LEAST SEVEN (7) DAYS WITH FULL PAY FOR THE FIRST FOUR (4) DELIVERIES OF THE LEGITIMATE SPOUSE WITH WHOM ~~HE IS~~ THEY ARE COHABITING; PROVIDED, THAT WHERE THE EMPLOYEES ARE NOT MARRIED, THEY SHOULD AT LEAST BE COHABITING WITH THE OTHER AS PARTNER FOR AT LEAST FIVE (5) YEARS. ~~THE~~ MALE EMPLOYEES APPLYING FOR PATERNITY LEAVE SHALL NOTIFY ~~HIS~~ EMPLOYERS OF THE PREGNANCY OF ~~HIS~~ THEIR LEGITIMATE SPOUSE OR PARTNER AND THE EXPECTED DATE OF SUCH DELIVERY.

FOR PURPOSES OF THIS ~~ACT~~PROVISION, DELIVERY SHALL INCLUDE CHILDBIRTH OR ANY MISCARRIAGE. (new)

ART. 142. PARENTAL LEAVE. IN ADDITION TO OTHER LEAVE PRIVILEGES BENEFITS UNDER EXISTING LAWS, PARENTAL LEAVE OF ~~NOT MORE THAN~~ AT LEAST SEVEN (7) WORKING DAYS EVERY YEAR SHALL BE GRANTED TO ~~ANY SOLO PARENT EMPLOYEES~~ WHO ~~HAS~~HAVE RENDERED SERVICE OF AT LEAST ONE (1) YEAR. THE SEVEN-DAY PARENTAL LEAVE SHALL BE NON-CUMULATIVE.

"PARENTAL LEAVE" SHALL BE GRANTED TO ENABLE EMPLOYEES TO PERFORM PARENTAL DUTIES AND RESPONSIBILITIES WHERE PHYSICAL PRESENCE IS REQUIRED. (new)

ART. 143. PARENTAL LEAVE FOR ADOPTERS. PERSONS WHO HAVE LEGALLY ADOPTED A MINOR, SHALL, AFTER THE ISSUANCE OF THE PRE-ADOPTION PLACEMENT AUTHORITY ISSUED BY THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT (DSWD), BE ENTITLED TO THIRTY (30) DAYS OF PARENTAL LEAVE: *PROVIDED*, THAT, IF ADOPTIVE PARENTS ALSO QUALIFY FOR LEAVE BENEFITS UNDER REPUBLIC ACT NO. 8552, "THE DOMESTIC ADOPTION ACT OF 1998," THE LEAVE BENEFIT WITH THE HIGHER NUMBER OF DAYS SHALL APPLY. (new)

ART. 144. FLEXIBLE WORK SCHEDULE. EMPLOYERS SHALL PROVIDE FOR A FLEXIBLE WORKING SCHEDULE FOR EMPLOYEES; *PROVIDED*, THAT THE SCHEDULE SHALL NOT AFFECT INDIVIDUAL AND COMPANY PRODUCTIVITY.

"FLEXIBLE WORK SCHEDULE" IS THE RIGHT GRANTED TO VARY EMPLOYEES' ARRIVAL AND DEPARTURE TIME WITHOUT AFFECTING THE CORE WORK HOURS AS DEFINED BY EMPLOYERS. (new)

ART. 145. LEAVES FOR VICTIMS OF VIOLENCE. VICTIMS OF VIOLENCE UNDER THIS REPUBLIC ACT NO. 9262 SHALL BE ENTITLED TO TAKE A PAID LEAVE OF ABSENCE UP TO TEN (10) DAYS IN ADDITION TO OTHER PAID LEAVES UNDER ~~THE LABOR—THIS CODE AND CIVIL SERVICE RULES AND REGULATIONS,~~ EXTENDIBLE WHEN THE NECESSITY ARISES AS SPECIFIED IN THE PROTECTION ORDER.

~~ANY EMPLOYERS~~ WHO SHALL PREJUDICE THE RIGHT OF THE PERSONS UNDER THIS SECTION PROVISION SHALL BE PENALIZED IN ACCORDANCE WITH THE PROVISIONS OF ~~THE LABOR—THIS CODE AND CIVIL SERVICE RULES AND REGULATIONS.~~ LIKEWISE, ~~AN EMPLOYERS~~ WHO SHALL PREJUDICE ~~ANY PERSONS~~ FOR ASSISTING ~~A CO-EMPLOYEES~~ WHO ~~IS A~~ ARE VICTIMS UNDER ~~THIS ACT~~ REPUBLIC ACT NO. 9262 SHALL ~~LIKEWISE~~ BE LIABLE FOR DISCRIMINATION. (new)

ART. 146. REPRODUCTIVE LEAVE. ~~A WOMAN~~ EMPLOYEES HAVING RENDERED CONTINUOUS AGGREGATE EMPLOYMENT SERVICE OF AT LEAST SIX (6) MONTHS FOR THE LAST TWELVE (12) MONTHS SHALL BE ENTITLED TO A SPECIAL LEAVE BENEFIT OF TWO (2) MONTHS WITH FULL PAY BASED ON ~~HER—THE~~ GROSS MONTHLY COMPENSATION FOLLOWING SURGERY CAUSED BY ~~GYNECOLOGICAL~~ REPRODUCTIVE DISORDERS, AS CERTIFIED BY A COMPETENT PUBLIC PHYSICIAN. (new)

CHAPTER III PREGNANT AND NURSING WORKERS

ART. 147. FACILITIES FOR NURSING WORKERS. EMPLOYERS SHALL BE REQUIRED TO ESTABLISH A NURSERY IN A WORKPLACE FOR THE BENEFIT OF ~~THE WOMEN~~ EMPLOYEES ~~THEREIN.~~ (130)

ART. 148. LACTATION PERIODS. NURSING EMPLOYEES WITH CHILD RESPONSIBILITY, WHETHER MALE OR FEMALE, SHALL BE GRANTED BREAK INTERVALS IN ADDITION TO THE REGULAR TIME-OFF FOR MEALS TO FEED OR BREASTFEED A CHILD OR TO EXPRESS MILK. THESE

INTERVALS, WHICH SHALL INCLUDE THE TIME IT TAKES AN EMPLOYEE TO GET TO AND FROM THE WORKPLACE LACTATION STATION, SHALL BE COUNTED AS COMPENSABLE HOURS WORKED. THE ~~DEPARTMENT OF LABOR AND EMPLOYMENT~~ DOLE MAY ADJUST THE SAME: *PROVIDED*, THAT SUCH INTERVALS SHALL NOT BE LESS THAN A TOTAL OF FORTY (40) MINUTES FOR EVERY EIGHT (8)-HOUR WORKING PERIOD. (new)

ART. 149. PROTECTION OF PREGNANT OR NURSING WORKERS. PREGNANT OR NURSING WORKERS SHOULD NOT BE OBLIGED TO WORK ON A REST DAY, RENDER NIGHT WORK OR OVERTIME WORK IF A MEDICAL CERTIFICATE DECLARES SUCH WORK TO BE INCOMPATIBLE WITH THEIR PREGNANCY OR NURSING. (new)

ART. 150. ALTERNATIVE WORK FOR NURSING WORKERS. WHERE WORK HAS BEEN DETERMINED BY COMPETENT AUTHORITY TO BE PREJUDICIAL TO THE HEALTH OF THE WORKER OR THE CHILD, OR WHERE AN ASSESSMENT HAS ESTABLISHED A SIGNIFICANT RISK TO THE WORKER'S HEALTH OR THAT OF THEIR CHILD, EMPLOYERS SHOULD PROVIDE MEASURES ON THE BASIS OF A MEDICAL CERTIFICATE AS APPROPRIATE, AN ALTERNATIVE TO SUCH WORK IN THE FORM OF:

- (a) ELIMINATION OF RISK;
- (b) AN ADAPTATION OF THEIR CONDITIONS OF WORK;
- (c) A TRANSFER TO ANOTHER POST, WITHOUT LOSS OF PAY, WHEN SUCH AN ADAPTATION IS NOT FEASIBLE; OR
- (d) PAID LEAVE, IN ACCORDANCE WITH THE PROVISIONS OF THIS CODE.

MEASURES REFERRED TO ABOVE SHOULD BE TAKEN IN RESPECT OF THE FOLLOWING:

- (a) ARDUOUS WORK INVOLVING THE MANUAL LIFTING, CARRYING, PUSHING OR PULLING OF LOADS;

- (b) WORK INVOLVING EXPOSURE TO BIOLOGICAL, CHEMICAL OR PHYSICAL AGENTS WHICH REPRESENT A REPRODUCTIVE HEALTH HAZARD;
- (c) WORK REQUIRING SPECIAL EQUILIBRIUM; OR
- (d) WORK INVOLVING PHYSICAL STRAIN DUE TO PROLONGED PERIODS OF SITTING OR STANDING, TO EXTREME TEMPERATURES, OR TO VIBRATION. (new)

Art. 151. Maternity Leave Benefits. ~~Every employer shall grant to any pregnant woman employee who has rendered an aggregate service of at least six (6) months for the last twelve (12) months, maternity leave of at least two (2) weeks prior to the expected date of delivery and another four (4) weeks after normal delivery or abortion with full pay based on her regular or average weekly wages. The employer may require from any woman employee applying for maternity leave the production of a medical certificate stating that delivery will probably take place within two weeks.~~

~~The maternity leave shall be extended without pay on account of illness medically certified to arise out of the pregnancy, delivery, abortion or miscarriage, which renders the woman unfit for work, unless she has earned unused leave credits from which such extended leave may be charged.~~

~~The maternity leave provided in this Article shall be paid by the employer only for the first four (4) deliveries by a woman employee after the effectivity of this Code.~~

FEMALE ~~MEMBERS~~WORKERS WHO HAVE PAID AT LEAST THREE (3) MONTHLY CONTRIBUTIONS IN THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE SEMESTER OF THEIR CHILDBIRTH OR MISCARRIAGE SHALL BE PAID A DAILY MATERNITY BENEFIT EQUIVALENT TO ONE HUNDRED PERCENT (100%) OF THEIR AVERAGE DAILY SALARY CREDIT FOR SIXTY (60) DAYS OR SEVENTY-EIGHT (78) DAYS IN CASE OF CAESARIAN DELIVERY, SUBJECT TO THE FOLLOWING CONDITIONS:

- (a) THAT THE EMPLOYEES SHALL HAVE NOTIFIED THEIR EMPLOYERS OF THEIR PREGNANCY AND THE PROBABLE DATE OF THEIR CHILDBIRTH, WHICH NOTICE SHALL BE TRANSMITTED TO THE SSS IN ACCORDANCE WITH THE RULES AND REGULATIONS IT MAY PROVIDE;
- (b) THE FULL PAYMENT SHALL BE ADVANCED BY THE EMPLOYERS WITHIN THIRTY (30) DAYS FROM THE FILING OF THE MATERNITY LEAVE APPLICATION;
- (c) THAT THE MATERNITY BENEFITS PROVIDED UNDER THIS PROVISION SHALL BE PAID ONLY FOR THE FIRST FOUR (4) DELIVERIES OR MISCARRIAGES;
- (d) THAT THE SSS SHALL IMMEDIATELY REIMBURSE THE EMPLOYERS OF ONE HUNDRED PERCENT (100%) OF THE AMOUNT OF MATERNITY BENEFITS ADVANCED TO THE EMPLOYEES BY THE EMPLOYERS UPON RECEIPT OF SATISFACTORY PROOF OF SUCH PAYMENT AND LEGALITY THEREOF; AND
- (e) THAT IF THE EMPLOYEE MEMBERS SHOULD GIVE BIRTH OR SUFFER MISCARRIAGE WITHOUT THE REQUIRED CONTRIBUTIONS HAVING BEEN REMITTED FOR THEM BY THEIR EMPLOYERS TO THE SSS, OR WITHOUT THE LATTER HAVING BEEN PREVIOUSLY NOTIFIED BY ~~THE~~ EMPLOYERS OF THE TIME OF THE PREGNANCY, THE EMPLOYERS SHALL PAY TO THE SSS DAMAGES EQUIVALENT TO THE BENEFITS WHICH SAID EMPLOYEE MEMBERS WOULD OTHERWISE HAVE BEEN ENTITLED TO.

IN CASE THE EMPLOYEES ~~QUALIFIES~~ QUALIFY AS A SOLO PARENTS UNDER REPUBLIC ACT NO. 8972, OR THE SOLO PARENTS' WELFARE ACT, ~~THE EMPLOYEE~~ THEY SHALL BE PAID THE DAILY MATERNITY BENEFIT FOR ONE HUNDRED AND FIFTY (150) DAYS.

AN ADDITIONAL MATERNITY LEAVE OF THIRTY (30) DAYS, WITHOUT PAY, CAN BE AVAILED OF, AT THE OPTION OF THE FEMALE WORKERS AS LONG AS THE HEAD OF THE AGENCY SHALL BE GIVEN DUE NOTICE, IN

WRITING, AT LEAST FORTY-FIVE (45) DAYS BEFORE THE END OF THEIR ORDINARY MATERNITY LEAVE.

WORKERS AVAILING OF THE MATERNITY LEAVE PERIOD AND BENEFITS MUST RECEIVE NOT LESS THAN TWO THIRDS (2/3) OF THEIR REGULAR MONTHLY WAGES. EMPLOYERS FROM THE PRIVATE SECTOR SHALL BE RESPONSIBLE FOR PAYMENT OF THE SALARY DIFFERENTIAL BETWEEN THE ACTUAL CASH BENEFITS RECEIVED FROM THE SOCIAL SECURITY SYSTEM (SSS) BY THE COVERED FEMALE WORKERS AND THEIR AVERAGE WEEKLY OR REGULAR WAGES, FOR THE ENTIRE DURATION OF THE ORDINARY MATERNITY LEAVE, WITH THE FOLLOWING EXCEPTIONS, SUBJECT TO THE GUIDELINES TO BE ISSUED BY THE ~~DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE):~~

- (a) THOSE OPERATING DISTRESSED ESTABLISHMENTS;
- (b) THOSE RETAIL/SERVICE ESTABLISHMENTS EMPLOYING NOT MORE THAN TEN (10) WORKERS;
- (c) THOSE CONSIDERED AS MICRO-BUSINESS ENTERPRISES AND ENGAGED IN THE PRODUCTION, PROCESSING, OR MANUFACTURING OF PRODUCTS OR COMMODITIES INCLUDING AGRO-PROCESSING, TRADING, AND SERVICES, WHOSE TOTAL ASSETS ARE NOT MORE THAN THREE MILLION PESOS (P3,000,000.00); AND
- (d) THOSE WHO ARE ALREADY PROVIDING SIMILAR OR MORE THAN THE BENEFITS HEREIN PROVIDED. (131a)

ART. 152. NON-TRANSFERABILITY OF BENEFITS. THE SSS SHALL PROMPTLY PAY THE BENEFITS PROVIDED IN THIS ~~ACT~~ CODE TO SUCH PERSONS AS MAY BE ENTITLED THERETO IN ACCORDANCE WITH THE PROVISIONS OF THIS ~~ACT~~CODE: *PROVIDED*, THAT THE SSS SHALL PAY THE RETIREMENT BENEFITS ON THE DAY OF CONTINGENCY TO QUALIFIED MEMBERS WHO HAVE SUBMITTED THE NECESSARY DOCUMENTS AT LEAST SIX (6) MONTHS BEFORE: *PROVIDED, FURTHER*, THAT THE BENEFICIARIES WHO ~~IS~~ARE NATIONALS OF A FOREIGN COUNTRYIES WHICH DO NOT EXTEND BENEFITS TO A FILIPINO

BENEFICIARYIES RESIDING IN THE PHILIPPINES, OR WHICH ARE NOT RECOGNIZED BY THE PHILIPPINES, SHALL NOT BE ENTITLED TO RECEIVE ANY BENEFIT UNDER THIS ACT—CODE: *PROVIDED, FURTHER*, THAT NOTWITHSTANDING THE FOREGOING, WHERE THE BEST INTEREST OF THE SSS WILL BE SERVED, THE COMMISSION MAY DIRECT PAYMENTS WITHOUT REGARD TO NATIONALITY OR COUNTRY OF RESIDENCE: *PROVIDED, FURTHER*, THAT IF THE RECIPIENTS ARE MINORS OR PERSONS INCAPABLE OF ADMINISTERING THEIR OWN AFFAIRS, THE COMMISSION SHALL APPOINT REPRESENTATIVES UNDER SUCH TERMS AND CONDITIONS AS IT MAY DEEM PROPER: *PROVIDED, FURTHER*, THAT SUCH APPOINTMENT SHALL NOT BE NECESSARY IN CASE THE RECIPIENTS ARE UNDER THE CUSTODY OF OR LIVING WITH THE PARENTS OR SPOUSE OF THE MEMBERS IN WHICH CASE THE BENEFITS SHALL BE PAID TO SUCH PARENTS OR SPOUSE, AS REPRESENTATIVE PAYEES OF THE RECIPIENTS. SUCH BENEFITS ARE NOT TRANSFERABLE AND NO POWER OF ATTORNEY OR OTHER DOCUMENT EXECUTED BY THOSE ENTITLED THERETO IN FAVOR OF ANY AGENT, ATTORNEY OR ANY OTHER PERSON FOR THE COLLECTION THEREOF ON THEIR BEHALF SHALL BE RECOGNIZED, EXCEPT WHEN THEY ARE PHYSICALLY UNABLE TO COLLECT PERSONALLY SUCH BENEFITS: *PROVIDED. FURTHER*, THAT IN CASE OF DEATH BENEFITS, IF NO BENEFICIARY QUALIFIES UNDER THIS ACT, SAID BENEFITS SHALL BE PAID TO THE LEGAL HEIRS IN ACCORDANCE WITH THE LAW OF SUCCESSION. *PROVIDED, FINALLY*, THAT THIS BENEFIT IS OVER AND ABOVE THAT WHICH IS PROVIDED UNDER THIS CODE. (NEW)

Book Four

HEALTH, SAFETY AND SOCIAL WELFARE BENEFITS

Title I

MEDICAL, DENTAL AND OCCUPATIONAL SAFETY

Chapter I

MEDICAL AND DENTAL SERVICES

Art. 153. First-Aid Treatment. ~~Every~~ EmployerS shall keep in ~~his~~ THEIR establishment such first-aid medicines and equipment as the nature and conditions of work may require, in accordance with such regulations as the ~~Department of Labor and Employment~~ DOLE shall prescribe.

~~The~~ EmployerS shall take steps for the training of a sufficient number of employees in first-aid treatment. (162a)

Art. 154. Emergency Medical and Dental Services. It shall be the duty of ~~every~~ employerS to furnish ~~his~~-THEIR employees in any locality with free medical and dental attendance and facilities consisting of:

- (a) The services of a full-time registered nurse when the number of employees exceeds fifty (50) but not more than two hundred (200) except when the employerS does not maintain hazardous workplaces, in which case, the services of a graduate first-aider shall be provided for the protection of workers, where no registered nurseS is ARE available. The ~~Secretary of Labor and Employment~~ SOLE shall provide by appropriate regulations the services that shall be required where the number of employees does not exceed fifty (50) and shall determine by appropriate order, hazardous workplaces for purposes of this ~~Article~~PROVISION;
- (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 two hundred (200) but not more than three hundred (300); and
- (c) The services of a full-time physician, dentist and a full-time registered nurse as well as a dental clinic and an infirmary or emergency hospital with one bed capacity for every one hundred (100) employees when the number of employees exceeds three hundred (300).

In cases of hazardous workplaces, no employer shall engage the services of a physician or a dentist who cannot stay in the premises of the establishment for at least two (2) hours, in the case of those engaged on part-time basis, and not less than eight (8) hours, in the case of those employed on full-time basis. Where the undertaking is non-

hazardous in nature, the physician and dentist may be engaged on retained basis, subject to such regulations as the ~~Secretary of Labor and Employment~~ SOLE may prescribe to insure immediate availability of medical and dental treatment and attendance in case of emergency. (163a)

Art. 155. When Emergency Hospital Not Required. The requirement for an emergency hospital or dental clinic shall not be applicable in case there is a hospital or dental clinic which is accessible from the ~~employer's~~ EMPLOYERS' establishment and ~~he~~ THEY makes arrangements for the reservation therein of the necessary beds and dental facilities for the use of ~~his~~ THEIR employees. (164a)

Art. 156. Health Program. The PhysicianS engaged by ~~an~~ employerS shall, in addition to ~~his~~ THEIR duties under this Chapter, develop and implement a comprehensive occupational health program for the benefit of the employees of ~~his~~ THEIR employerS. (165a)

Art. 157. Qualifications of Health Personnel. The physicians, dentists and nurses employed by employers pursuant to this Chapter shall have the necessary training in industrial medicine and occupational safety and health. The ~~Secretary of Labor and Employment~~ SOLE, in consultation with ~~industrial~~ THE NATIONAL TRIPARTITE INDUSTRIAL PEACE COUNCIL (NTIPC), medical, and occupational safety and health associations, shall establish the qualifications, criteria and conditions of employment of such health personnel. (166a)

Art. 158. Assistance of Employer. It shall be the duty of ~~any~~ employerS to provide all the necessary assistance TO INJURED OR SICK EMPLOYEES SUBJECT TO SUCH REGULATIONS AS THE SOLE MAY PROVIDE to ensure the adequate and immediate medical and dental attendance and treatment to ~~an~~ injured or sick employeeS in case of emergency. (167a)

Chapter II
OCCUPATIONAL HEALTH AND SAFETY

Art. 159. Safety and Health Standards. The ~~Secretary of Labor and Employment~~ SOLE shall, by appropriate orders, set and enforce mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all workplaces and institute new, and update existing, programs to ensure safe and healthful working conditions in all places of employment. (168a)

Art. 160. Research. It shall be the responsibility of the ~~Department of Labor and Employment~~ DOLE 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 by establishing causal connections between diseases and work in environmental conditions; and to develop medical criteria which will assure insofar as practicable that ~~no~~ employees will NOT suffer impairment or diminution in health, functional capacity, or life expectancy as a result of ~~his~~ THEIR work and working conditions. (169a)

Art. 161. Training Programs. The ~~Department of Labor and Employment~~ DOLE shall develop and implement training programs to increase the number and competence of personnel in the field of occupational safety and industrial health. (170)

Art. 162. Administration of Safety and Health Laws.

- (a) The ~~Department of Labor~~ DOLE shall be solely responsible for the administration and enforcement of occupational safety and health laws, regulations and standards in all establishments and workplaces wherever they may be located. However, chartered cities may be allowed to conduct industrial safety inspections of establishments within their respective jurisdictions where they have adequate facilities and competent personnel for the purpose as determined by the ~~Department of Labor~~ DOLE and subject to national standards established by the latter.
- (b) The ~~Secretary of Labor~~ SOLE may, through appropriate regulations, collect reasonable fees for the inspection of steam boilers, pressure vessels and pipings and electrical installations, the test and approval for safe use of materials,

equipment and other safety devices and the approval of plans for such materials, equipment and devices. The fee 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~~ DOLE. (171a)

Title II

EMPLOYEES COMPENSATION AND STATE INSURANCE FUND

Chapter I

POLICY AND DEFINITIONS

ART. 163. Policy. THE STATE AFFIRMS LABOR AS A PRIMARY SOCIAL ECONOMIC FORCE. IT SEEKS TO IMPROVE THE QUALITY OF LIFE OF THE EMPLOYEES BY ENSURING EQUITABLE ACCESS TO ADEQUATE AND QUALITY SOCIAL SERVICES AND ASSETS. IT SHALL PROTECT THE RIGHTS OF THE WORKERS AND PROMOTE THEIR WELFARE, AND TOWARDS THIS END, SHALL:

- (1) BUILD AND SUSTAIN AMONG WORKERS AND EMPLOYERS THE OCCUPATIONAL HEALTH AND SAFETY PROGRAMS IN ORDER TO PREVENT AND MINIMIZE THE INCIDENCE OF WORK-CONNECTED INJURIES AND DISEASES;
- (2) ENSURE PROMPT AND ADEQUATE COMPENSATION FOR WORKERS AND THEIR DEPENDENTS IN THE EVENT OF WORK-CONNECTED DISABILITY OR DEATH; AND
- (3) PROVIDE OCCUPATIONALLY-DISABLED WORKERS WITH REHABILITATION SERVICES TO ENABLE THEM TO BECOME PRODUCTIVE MEMBERS OF SOCIETY. (new)

Art. 164. Definition of Terms. As used in this Title, unless the context indicates otherwise:

- (a) "*Code*" means the REVISED Labor Code of the Philippines instituted under Presidential Decree ~~Numbered Four Hundred Forty Two~~ No. 442, as amended.

- (b) "*Commission*" means the Employees' Compensation Commission created under this Title.
- (c) "*BOARD*" MEANS THE BOARD OF COMMISSIONERS GOVERNING THE EMPLOYEES' COMPENSATION COMMISSION AND THE OCCUPATIONAL SAFETY AND HEALTH CENTER.
- (d) "SSS" means the Social Security System.
- (e) "*CENTER*" MEANS THE OCCUPATIONAL SAFETY AND HEALTH CENTER.
- (f) "*GSIS*" means the Government Service Insurance System.
- (g) "*REGIONAL EXTENSION UNITS*" MEANS REGIONAL AND FIELD OFFICES IN PROVINCES OR CHARTERED CITIES ESTABLISHED BY THE COMMISSION.
- (h) "*System*" means the SSS or GSIS, as the case may be.
- (i) "*Employer*" means any person, ~~natural or juridical, employing the services of the employee~~ DOMESTIC OR FOREIGN, WHO CARRIES ON IN THE PHILIPPINES ANY TRADE, BUSINESS, INDUSTRY, UNDERTAKING OR ACTIVITY OF ANY KIND AND USES THE SERVICES OF OTHER PERSONS WHO ARE UNDER THEIR ORDERS AS REGARDS THE EMPLOYMENT, INCLUDING THE NATIONAL GOVERNMENT, ITS POLITICAL SUBDIVISIONS, AGENCIES OR INSTRUMENTALITIES AND GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS.
- (j) "*Employee*" means any person compulsorily covered by the GSIS under REPUBLIC ACT NO. 8291, OR ANY AMENDMENTS THEREAFTER, including members of the Armed Forces of the Philippines, ~~and any person employed as casual, emergency, temporary, substitute or contractual, or any person~~ THE PHILIPPINE NATIONAL POLICE, BUREAU OF FIRE PROTECTION, AND BUREAU OF JAIL MANAGEMENT AND PENOLOGY, WHO IS compulsorily covered by the SSS under REPUBLIC ACT NO. 11199, OR ANY AMENDMENTS THEREAFTER.
- (k) "*Person*" means any individual, partnership, firm, association, trust, corporation or legal representative thereof.
- (l) "*Dependents*" means the legitimate, legitimated or legally adopted, or illegitimate child who is unmarried, not gainfully employed, and not over ~~twenty-~~

~~one~~ EIGHTEEN (18) YEARS of age or over ~~twenty-one~~ EIGHTEEN (18) YEARS of age provided ~~he~~ THE DEPENDENT is incapacitated and incapable of self-support due to a physical or intellectual disability which is congenital or acquired ~~during minority~~ PRIOR TO REACHING THE AGE OF EIGHTEEN (18); the legitimate spouse AS CONTEMPLATED UNDER THE FAMILY CODE OF THE PHILIPPINES; and the parents of said employeeS dependent upon ~~him~~ THEM for support.

- (m) "*Beneficiaries*" means the legitimate spouse until ~~he/she~~ SAID SPOUSE remarries OR COHABITS WITH ANOTHER, and dependent LEGITIMATE, LEGITIMATED, LEGALLY ADOPTED AND ILLEGITIMATE children, who are the primary beneficiaries. In their absence, the dependent parents and subject to the restrictions imposed on dependent children and legitimate descendants who are the secondary beneficiaries.
- (n) "*WORK-CONNECTED Injury*" means any harmful change in the human organism from any accident arising out of and in the course of the employment.
- (o) "*WORK-CONNECTED Sickness*" means any CONDITION LISTED BY THE COMMISSION as an occupational disease OR A COMPENSABLE WORK-RELATED ILLNESS, or any illness caused by employment, subject to proof that the risk of contracting the same is increased by working conditions.
- (p) "*Death*" means loss of life resulting from WORK-CONNECTED injury or sickness.
- (q) "*Disability*" means loss or SUBSTANTIAL REDUCTION OF EARNING POWER DUE TO A WORK-CONNECTED SICKNESS OR INJURY.
- (r) "*Compensation*" means all payments made under this Title for income benefits and medical or related benefits.
- (s) "*LOSS-OF-Income benefit*" means all payments made under this Title to ~~the~~ employeeS or ~~his~~ THEIR dependents FOR TEMPORARY OR PERMANENT DISABILITY DUE TO WORK-CONNECTED SICKNESS OR INJURY.
- (t) "*Medical benefit*" means all payments made under this Title to the providers of medical care, rehabilitation services and hospital care.
- (u) "*Related benefit*" means all payments made under this Title for appliances and supplies.
- (v) "*Appliances*" means crutches, artificial aids and other similar devices.

- (w) "*Supplies*" means medicine and other medical, dental or surgical items.
- (x) ~~"Hospital"~~ "*MEDICAL FACILITY*" means any HOSPITAL OR CLINIC, government or private, an active member in good standing of the Philippine Hospital Association and ~~accredited~~—LICENSED by the ~~Commission~~ DEPARTMENT OF HEALTH.
- (y) "*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 LICENSED BY THE PRC AND accredited by the ~~Commission~~ DEPARTMENT OF HEALTH AND PHILHEALTH.
- (z) "*Wages*" or "*Salary*", insofar as they refer to the computation of benefits, means the monthly remuneration (or compensation) as defined under Republic Act No. ~~1161~~ 11199, as amended, for SSS and ~~Presidential Decree No. 1146~~ REPUBLIC ACT NO. 8291, as amended, for GSIS, respectively, except that part in excess of Three Thousand Pesos (P3,000.00).
- (aa) "*Monthly salary credit*" means the wage or the salary base for contributions as provided in Republic Act ~~Numbered Eleven hundred sixty one, as amended~~ No. 11199, or wages or salary.
- (bb) "*Average monthly salary credit*" in the case of the SSS means the result obtained by dividing the sum of the monthly salary credits in the sixty-month period immediately preceding the semester of death or permanent disability by sixty (60), except where the month of death or permanent disability falls within eighteen (18) calendar months from the month of coverage, in which case it is the result obtained by dividing the sum of all monthly salary credits paid prior to the month of the contingency by the total number of calendar months of coverage in the same period.
- (cc) "*Average daily salary credit*" in the case of the SSS means the result obtained by dividing the sum of the six (6) highest monthly salary credits in the twelve-month period immediately preceding the semester of sickness or injury by one hundred eighty (180), except where the month of injury falls within twelve (12) calendar months from the first month of coverage, in which case it is the result obtained by dividing the sum of all monthly salary credits by thirty (30) times the number of calendar months of coverage in the period.

In the case of the GSIS, the average daily salary credit shall be the actual daily salary or wage, or the monthly salary or wage divided by the actual number of working days of the month of contingency.

- (dd) "*Quarter*" means a period of three (3) consecutive months ending on the last days of March, June, September and December.
- (ee) "*Semester*" means a period of two consecutive quarters ending in the quarter of death, permanent disability, injury or sickness.
- (ff) "*Replacement ratio*" IS the sum of twenty percent (20%) and the quotient obtained by dividing three hundred (300) by the sum of three hundred forty (340) and the average monthly salary credit.
- (gg) "*Credited years of service*", for a member covered prior to January 1975, IS nineteen hundred seventy-five (1975) minus the calendar year of coverage, plus the number of calendar years in which six (6) or more contributions have been paid from January, 1975 up to the calendar year containing the semester prior to the contingency. For a member covered on or after January 1975, the number of calendar years in which six (6) or more contributions have been paid from the year of coverage up to the calendar year containing the semester prior to the contingency.
- (hh) "*Monthly income benefit*" means the amount equivalent to one hundred fifteen percent (115%) of the sum of: The average monthly salary credit multiplied by the replacement ratio; and One and a half percent (1.5%) of the average monthly salary credit for each credited year of service in excess of ten (10) years; *Provided*, That the monthly income benefit shall in no case be less than Two Hundred Fifty Pesos (P250.00).
- (ii) "*TEMPORARY TOTAL DISABILITY*" MEANS THE COMPLETE INABILITY TO WORK FOR A TEMPORARY PERIOD UNDER THIS TITLE.
- (jj) "*PERMANENT PARTIAL DISABILITY*" MEANS THE LIMITED USE OF A PART OF THE BODY AFTER RECOVERY FROM WORK-CONNECTED SICKNESS OR INJURY.
- (kk) "*PERMANENT TOTAL DISABILITY*" MEANS THE COMPLETE INABILITY TO WORK UNDER THIS TITLE, UNLESS COMPLETE RECOVERY OCCURS AS CERTIFIED BY THE SYSTEM.

- (ll) “*CONTRIBUTION*” MEANS THE AMOUNT REMITTED OR TO BE REMITTED BY EMPLOYERS TO THE STATE INSURANCE FUND FOR EACH EMPLOYEE UNDER THEIR EMPLOY.
- (mm) “*FUND*” MEANS THE STATE INSURANCE FUND.
- (nn) “*OCCUPATIONALLY DISABLED WORKERS*” OR “*ODW*” REFERS TO EMPLOYEES WHO SUSTAINED A DISABILITY AS A RESULT OF A WORK-CONNECTED SICKNESS OR INJURY.
- (oo) “*SAFETY AND HEALTH*” REFERS TO THE INTERNATIONALLY ACCEPTED DEFINITION OF OCCUPATIONAL SAFETY AND HEALTH.
- (173a)

Chapter II

COVERAGE AND LIABILITY

ART.165. COVERAGE.

- (a) Coverage in the ~~State Insurance Fund~~ PROGRAM shall be compulsory upon all employers and their employees ~~not over sixty (60) years of age~~;
- (b) Compulsory coverage of ~~the employerS during the effectivity of this Title~~ shall take effect on the first day of ~~his~~ BUSINESS operation, and that of ~~the~~ employeeS, on the date of ~~his~~ THEIR employment; AND
- (c) THE PROGRAM MAY COVER LAND-BASED OVERSEAS FILIPINO WORKERS, SELF-EMPLOYED, AND WORKERS IN THE INFORMAL SECTOR, SUBJECT TO THE REGULATIONS AS MAY BE PRESCRIBED BY THE COMMISSION. (174a, 175a, 176a)

Art. 166. Registration. ~~Each~~ EmployerS and ~~his~~ THEIR employees shall register with the System in accordance with ~~its~~ THE regulations AS MAY BE PRESCRIBED BY THE COMMISSION. (177a)

Art. 167. Limitation of Liability. The State Insurance Fund shall be liable for compensation to the employeeS or ~~his~~ THEIR dependents, except when the disability or death was occasioned by the ~~employee's~~ EMPLOYEES' intoxication, willful intention to injure or kill ~~himself~~ THEMSELVES or another, notorious negligence, or otherwise provided under this Title. (178a)

ART. 168. NON-EXCLUSIVITY OF BENEFITS. THE PAYMENT OF COMPENSATION UNDER THIS TITLE SHALL NOT BAR THE RECOVERY OF BENEFITS, WHICH THE WORKERS, IN BOTH GOVERNMENT AND PRIVATE SECTOR, MAY BE ENTITLED TO UNDER OTHER SOCIAL SECURITY LAWS WHOSE BENEFITS ARE ADMINISTERED BY THE SYSTEM OR BY OTHER GOVERNMENT AGENCIES. (new)

Art. 169. Liability of Third Parties.

- (a) When the disability or death is caused by circumstances creating a legal liability against a third party, the disabled employeeS or the dependents, in case of his THEIR 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 employeeS or the dependents, in case of his- THEIR 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 employeeS or other persons entitled thereto, after deducting the cost of proceedings and expenses of the System. (180a)

Art. 170. Deprivation of the Benefits. Except as otherwise provided under this Title, no contract, regulation or device whatsoever shall operate to deprive the employeeS or his THEIR dependents of any part of the income benefits and medical or related services granted under this Title. Existing medical services being provided by the employerS shall be maintained and continued to be enjoyed by their employees. (181a)

**Chapter III
ADMINISTRATION**

Art. 171. Employees' Compensation Commission. THE EMPLOYEES' COMPENSATION COMMISSION, CREATED UNDER PRESIDENTIAL DECREE NO. 626, AS AMENDED, HEREBY CONTINUES TO EXIST to initiate, rationalize, and coordinate the policies of the employers' compensation program, ~~the Employees' Compensation Commission is hereby created to be.~~

- (a) The Commission shall have the status and category of a government OWNED AND CONTROLLED corporation, and it is hereby deemed attached to the ~~Department of Labor~~DOLE for policy coordination and guidance.
- (b) THE CORPORATE POWERS AND FUNCTIONS OF THE COMMISSION SHALL BE VESTED IN AND EXERCISED BY THE BOARD OF COMMISSIONERS, composed of ~~five ex-officio members, namely: the Secretary 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 two appointive members, one of whom shall represent the employees and the other, the employers, to be appointed by the President of the Philippines for a term of six years. The appointive member shall have at least five years' experience in workmen's compensation or social security programs. All vacancies shall be filled for the unexpired term only~~THE SOLE AS *EX OFFICIO* CHAIR, THE EXECUTIVE DIRECTOR OF THE ECC SECRETARIAT AS THE VICE-CHAIR, THE GSIS PRESIDENT AND GENERAL MANAGER, THE SSS PRESIDENT AND CHIEF EXECUTIVE OFFICER, THE PHILIPPINE HEALTH INSURANCE CORPORATION CHAIR, THE CIVIL SERVICE COMMISSION CHAIR, AND TWO (2) APPOINTIVE MEMBERS, ONE OF WHOM SHALL REPRESENT THE EMPLOYEES, AND THE OTHER, THE EMPLOYERS, BOTH SHALL BE APPOINTED BY THE PRESIDENT OF THE PHILIPPINES.

THE EXECUTIVE DIRECTOR OF THE ECC SECRETARIAT SHALL BE APPOINTED BY THE PRESIDENT OF THE PHILIPPINES.

THE APPOINTIVE MEMBERS SHALL BE CHOSEN FROM AMONG THE NOMINEES OF WORKERS' AND EMPLOYERS' ORGANIZATIONS, WHO SHALL HAVE AT LEAST FIVE (5) YEARS EXPERIENCE IN WORKMEN'S COMPENSATION OR SOCIAL SECURITY PROGRAMS.

THE THREE (3) APPOINTIVE MEMBERS SHALL HOLD OFFICE FOR ONE (1) YEAR, UNLESS SOONER REMOVED FOR CAUSE; *PROVIDED, HOWEVER,* THAT THE APPOINTIVE MEMBER SHALL CONTINUE TO HOLD OFFICE

UNTIL THE SUCCESSOR IS APPOINTED. ANY VACANCY IN THE BOARD OTHER THAN THROUGH THE EXPIRATION OF THE TERM SHALL BE FILLED IN THE MANNER IN WHICH THE ORIGINAL APPOINTMENT WAS MADE AND THE APPOINTEE SHALL SERVE ONLY THE UNEXPIRED TERM OF THEIR PREDECESSOR.

THE PRESENCE OF MORE THAN HALF OF THE MEMBERS SHALL CONSTITUTE A QUORUM. IN THEIR ABSENCE, ANY APPOINTIVE MEMBER MAY DESIGNATE AN OFFICIAL OF THE INSTITUTION THEY SERVE ON FULL-TIME BASIS AS THEIR REPRESENTATIVE TO ACT IN THEIR BEHALF.

THE *EX OFFICIO* MEMBERS OF THE BOARD MAY DESIGNATE THEIR RESPECTIVE ALTERNATES WHO SHALL BE THE OFFICIALS NEXT-IN-RANK TO THEM AND WHOSE ACTS SHALL BE CONSIDERED THE ACTS OF THEIR PRINCIPALS. (IN ACCORDANCE WITH SEC. 14 OF REPUBLIC ACT NO. 10149)

THE APPOINTIVE MEMBERS SHALL RECEIVE COMPENSATION, PER DIEM, ALLOWANCES AND INCENTIVES AS MAY BE PROVIDED BY LAW.

(c) THE COMMISSION SHALL GOVERN THE OCCUPATIONAL SAFETY AND HEALTH CENTER.

(d) THE COMMISSION SHALL ESTABLISH REGIONAL AND FIELD OFFICES IN PROVINCES OR CHARTERED CITIES, OR WHEREVER IT IS DEEMED NECESSARY, TO BRING ITS SERVICES CLOSER TO THE STAKEHOLDERS. (182a)

Art. 172. Powers and Duties FUNCTIONS. The Commission shall have the following powers and ~~duties~~-FUNCTIONS:

(a) ~~To assess and fix a rate of contribution from all employers;~~ TO INITIATE AND ISSUE POLICIES ON THE THREE COMPONENTS OF THE EMPLOYEES' COMPENSATION PROGRAM, AS FOLLOWS:

- (1) PREVENTION. THE ADEQUATE OCCUPATIONAL HEALTH AND SAFETY, AND THE ACCIDENT PREVENTION IN THE WORKPLACE BASED ON THE STUDIES AND RESEARCHES DONE BY THE CENTER;
 - (2) COMPENSATION. THE FORMULATION OF COMPENSATION PACKAGES OTHER THAN AND/OR IN ADDITION TO THE BENEFITS ALREADY PROVIDED FOR IN THIS TITLE; AND
 - (3) REHABILITATION. THE CONTINUING REHABILITATION SERVICES FOR THE ODW FOUND TO BE ENTITLED TO COMPENSATION BENEFITS; INCLUDING, IF PRACTICABLE, THE ESTABLISHMENT OF REHABILITATION CENTERS EQUIPPED AND STAFFED TO PROVIDE A BALANCED PROGRAM OF REMEDIAL TREATMENT, VOCATIONAL ASSESSMENT AND PREPARATION DESIGNED TO MEET THE INDIVIDUAL NEEDS OF EACH ODW TO RESTORE THEM TO SUITABLE EMPLOYMENT, SUCH AS ASSISTANCE TO DEVELOP THEIR MENTAL, VOCATIONAL, OR SOCIAL POTENTIAL.
- (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 therefrom 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 185 hereof, and other related programs and activities, and to appropriate funds therefor;
 - (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; *Provided, Further*, That the actuarial stability of the State Insurance Fund shall be guaranteed BY THE NATIONAL GOVERNMENT; *Provided, MOREOVER*, That such increases in

benefits shall ~~not require any~~ RESULT TO CORRESPONDING increases in EC contribution; *PROVIDED, FINALLY, THAT IF THEY FALL UNDER PARAGRAPH (B) HEREOF, THE RESULTING INCREASE IN EC CONTRIBUTION SHOULD BE BORNE BY THE EMPLOYER;*

- (f) To appoint the personnel of its staff, subject to civil service law and rules, but exempt from regulations ON SALARY STANDARDIZATION;
- (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;*
- (h) To have the power to administer oath and affirmation, and to issue *subpoena ad testificandum* 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. (183a)

Art. 173. 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 thereunder 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 (12%) of the contribution and investment earnings collected for operational expenses, including occupational health and safety programs, incidental to the carrying out of this Title. (184a)*

Art. 174. 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. (185)

Art. 175. 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. (186)

Art. 176. 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. (187)

Art. 177. Enforcement of Decisions.

- (a) 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.
- (b) 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~~ REGIONAL TRIAL COURT, 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. (188a)

Chapter IV CONTRIBUTIONS

Art. 178. Employer's contributions.

- (a) Under such regulations as the ~~System~~ COMMISSION may prescribe, beginning as of the last day of the month when an ~~employee's~~ EMPLOYEES' compulsory coverage takes effect and every month thereafter during ~~his~~ THEIR employment, ~~his~~ THEIR employer shall remit to the System a contribution equivalent to one percent of ~~his~~ THEIR monthly salary credit.
- (b) The rate of contribution shall be reviewed periodically and, subject to the limitations herein provided, may be revised as the experience in risk, cost of administration, and actual or anticipated as well as unexpected losses, may require.
- (c) Contributions under this Title shall be paid in their entirety by ~~the employerS~~ and any contract or device for the deduction of any portion thereof from the wages or salaries of the employees shall be null and void.
- (d) When a covered ~~employeeS~~ dies, becomes disabled or ~~is~~ ARE separated from employment, ~~his~~ THEIR ~~employer's~~ EMPLOYERS' obligation to pay the monthly contribution arising from that employment shall cease at the end of the month of contingency and during such months that ~~he-is~~ THEY ARE not receiving wages or salary.
- (e) FOR VOLUNTARY MEMBERS UNDER THE PROGRAM, THE EMPLOYERS' CONTRIBUTION SHALL BE PAID IN ITS ENTIRETY BY THE MEMBERS OR MAY BE SUBSIDIZED SUBJECT TO THE REGULATIONS AS MAY BE PRESCRIBED BY THE COMMISSION. (189a)

Art. 179. Government guarantee. The Republic of the Philippines guarantees the benefits under this Title, and accepts general responsibility for the solvency of the State Insurance Fund. In case of any deficiency, the same shall be covered by supplemental appropriations from the national government. (190)

Chapter V
MEDICAL BENEFITS

Art. 180. Medical services. Immediately after an employeeS contracts sickness or sustains an injurIES, he THEY shall be provided by the System during the subsequent period of his THEIR disability with such medical services and appliances as the nature of his THEIR sickness or injury and progress of his THEIR recovery may require, subject to the expense limitation prescribed by the Commission.

THE COMMISSION MAY DETERMINE THE SCHEME OF PAYMENT DEPENDING ON THE UTILIZATION FOR SUCH SERVICES. (191a)

Art. 181. Liability. The System shall have the authority to choose or order a change of physician, hospital or rehabilitation facility for the employee, and shall not be liable for compensation for any aggravation of the employee's injury or sickness resulting from unauthorized changes by the employee of medical services, appliances, supplies, hospitals, rehabilitation facilities or physicians, SUBJECT TO THE REGULATIONS PRESCRIBED BY THE COMMISSION. (192a)

Art. 182. Attending Physician. Any PhysicianS attending an TO injured or sick employeeS shall comply with all the regulations of the ~~System~~ COMMISSION and submit reports in prescribed forms at such time as may be required BY THE SYSTEM OR COMMISSION concerning his THEIR condition or treatment. All medical information relevant to the particular injury or sickness shall on demand be made available to the employee or the System. No information developed in connection with treatment or examination for which compensation is sought shall be considered as privileged communication. (193a)

Art. 183. Refusal of examination or treatment. If the employeeS unreasonably refuses to submit to medical examination or treatment, the System shall stop the payment of further compensation during such time as such refusal continues. What constitutes an unreasonable refusal shall be determined by the System which may on its own initiative determine the necessity, character and sufficiency of any medical services furnished or to be furnished. (194)

Art. 184. Fees and Other Charges. All fees and other charges for hospital services, 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. (195a)

Art. 185. 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 rehabilitee to develop his mental, vocational or social potential.~~

(a) THE COMMISSION SHALL ESTABLISH A REHABILITATION PROGRAM DESIGNED TO MEET THE INDIVIDUAL NEEDS OF WORKERS WITH DISABILITY TO RESTORE THEIR EARNING CAPACITY OR IMPROVE THEIR PHYSICAL FUNCTIONING, IN CASES OF PERMANENT TOTAL DISABILITY. IN THIS REGARD, THE COMMISSION MAY MAINTAIN OR AVAIL OF THE SERVICES OF SPECIALIZED PRIVATE AND PUBLIC REHABILITATION FACILITIES OR CENTERS THAT CAN PROVIDE THE NECESSARY ASSISTANCE, SUCH AS, BUT NOT LIMITED TO MEDICAL, SURGICAL OR HOSPITAL TREATMENT, INCLUDING APPLIANCES, THAT ARE APPROPRIATE TO THE NEEDS OF WORKERS WITH DISABILITY.

(b) ARRANGEMENTS FOR PLACEMENT OF VOCATIONALLY OR TECHNICALLY TRAINED WORKERS WITH DISABILITY SHALL BE AN INTEGRAL PART OF THE REHABILITATION PROGRAM. AS

INCENTIVE TO THE PARTICIPATING EMPLOYERS, THE COMMISSION MAY ENTER INTO AGREEMENTS TO PARTICIPATE IN THE PAYMENT OF WAGES OF THE PLACED ODW, UNDER SUCH RULES AND REGULATIONS PRESCRIBED BY THE COMMISSION SUBJECT TO THE VIABILITY OF THE STATE INSURANCE FUND. (196a)

Chapter VI DISABILITY BENEFITS

Art. 186. Temporary Total Disability.

- (a) Under such regulations as the Commission may approve, ~~any~~ employeeS 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 (90%) of ~~his~~ THEIR average daily salary credit, ~~subject to the following conditions: PROVIDED, THAT~~ the daily income benefit shall not be paid for a continuous period longer than one hundred twenty (120) days, except as otherwise provided for in the Rules, and the System shall be notified of the injury or sickness.
- (b) The monthly income benefit shall be in accordance with the regulations of the Commission. (197a)

Art. 187. Permanent Total Disability.

- (a) Under such regulations as the Commission may approve, ~~any~~ employeeS under this Title who contracts sickness or sustain an injury resulting in ~~his~~ THEIR permanent total disability shall, for each month until ~~his~~ THEIR death, be paid by the System during such a disability, an amount equivalent to the monthly income benefit, plus ten percent (10%) thereof for each dependent child, but not exceeding five (5), beginning with 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 (5) years REGARDLESS OF WHETHER THE EMPLOYEES ARE GAINFULLY EMPLOYED OR RECOVER FROM THEIR DISABILITY OR FAIL TO PRESENT THEMSELVES TO THE SYSTEM. HOWEVER, THE SAME ~~and~~

shall be suspended if the employeeS is-ARE gainfully employed, or recovers from his THEIR permanent total disability, or fails to present himself THEMSELVES 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.

(c) The following disabilities shall be deemed ~~total~~ and permanent TOTAL DISABILITY:

~~1. Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;~~

- (1) Complete loss of sight of both eyes;
- (2) Loss of two limbs at or above the ankle or wrist;
- (3) Permanent complete paralysis of two limbs;
- (4) Brain injury resulting in incurable imbecility or insanity; and

(5) PROFOUND, SEVERE HEARING LOSS ON BOTH EARS; AND

(6) 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. (198a)

Art. 188. Permanent Partial Disability.

(a) Under such regulation 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~~ EQUIVALENT TO THE MONTHLY INCOME BENEFIT.

(b) The benefit shall be paid for not more than the period designated in the following schedule:

Complete and permanent loss of the use of	No. of Months
One thumb	10
One index finger	8
One middle finger	6
One ring finger	5

One little finger	3
One big toe	6
Any 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
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 a loss of the 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 the whole finger or toe, and a loss of only the first 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 Sec. 7, P.D. 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 a 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 for work. (As amended by Sec. 7, P.D. 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 Sec. 7, P.D. 1368) (199a)

Chapter VII DEATH BENEFITS

Art. 189. Death.

- (a) Under such regulations as the Commission may approve, the System shall pay to the primary beneficiaries upon the death of ~~the~~ covered employeeS under this Title an amount equivalent to ~~his~~ THEIR monthly income benefit, plus ten percent (10%) thereof for each dependent child, but not exceeding five (5), beginning with the youngest and without substitution, except as provided for in ~~paragraph (j) of Article 166~~ PARAGRAPH (M) OF ARTICLE 164 hereof. However, if ~~he has~~ THEY HAVE no primary beneficiary, the System shall pay to ~~his~~ THEIR secondary beneficiaries. The monthly income benefit shall be guaranteed for five years and shall not be less than fifteen thousand pesos.

HOWEVER, SHOULD THE SURVIVING SPOUSE REMARRY, THEY SHALL NOT BE ENTITLED TO RECEIVE THE BENEFITS. (As amended by Sec. 4, P.D. 1921)

- (b) Under such regulations as the Commission may approve, the System shall pay to the primary beneficiaries upon the death of a covered employeeS who are under permanent total disability under this Title, eighty percent (80%) of the monthly income benefit and his THEIR dependents to the dependent's pension; *Provided*, That the marriage must have been validly subsisting at the time of disability: *Provided, further*, That if he-has THEY HAVE no primary beneficiary, the System shall pay to his THEIR 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 (P15,000.00). (As amended by Sec. 4, P.D. 1921)
- ~~b. 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.~~
- (c) ~~Funeral benefit.~~—A The funeral benefit of ~~Three Thousand Pesos (P3,000.00)~~ shall be paid upon the death of a covered employee or permanently totally disabled pensioner, IN THE AMOUNT PRESCRIBED BY THE COMMISSION BUT IN NO CASE LESS THAN THREE THOUSAND PESOS (P3,000.00). (200a)

Chapter VIII

PROVISIONS COMMON TO INCOME BENEFITS

Art. 190. Relationship and Dependency. All questions of relationship and dependency shall be determined as of the time of death. (201)

Art. 191. Delinquent contributions.

- (a) ~~An~~EmployerS who is ARE delinquent in his THEIR contributions shall be liable to the System for the benefits which may have been paid by the System to his THEIR employees or their dependents, and any benefit and expenses to which such employerS is ARE liable shall constitute a lien on all his THEIR property, real or personal, which is hereby declared to be preferred to any credit, except taxes. The payment by the employerS of the lump sum equivalent of such liability

shall absolve ~~him~~ THEM from the payment of the delinquent contributions and penalty thereon with respect to the employeeS concerned.

- (b) Failure or refusal of the employerS to pay or remit the contributions herein prescribed shall not prejudice the right of the employeeS or ~~his~~ THEIR 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~~ THEIR employeeS, the employerS shall be liable to the System for the lump sum equivalent to the benefits to which such employeeS or ~~his~~ THEIR dependents may be entitled. (202a)

Art. 192. Second Injuries. If ~~any~~ employeeS 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. (203)

Art. 193. Assignment of benefits. No claim for compensation under this Title shall be compensable 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. (204)

Art. 194. Earned Benefits. Income benefits shall, with respect to any period of disability, be payable in accordance with this Title to ~~an~~ employeeS ~~who is entitled to receive~~ REGARDLESS OF ENTITLEMENT TO wages, salaries or allowance for holidays, vacation or sick leaves and any award of benefit under a collective bargaining or other agreement. (205a)

Art. 195. EMPLOYER'S LIABILITY FOR FAILURE TO PROVIDE 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 take other precautions for the prevention of injury, said employer shall pay to 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 that required of them under

this Title, are enjoined to undertake and strengthen measures for the occupational health and safety of their employees. (206a)

Art. 196. Prescriptive Period. No claim for compensation shall be given due course unless said claim is filed with the System within ~~three~~ TEN (10) years from the time the cause of action accrued; *PROVIDED, HOWEVER*, THAT WHEN A CLAIMANT FILED CLAIMS FOR DISABILITY OR DEATH BENEFITS BEFORE THE SYSTEMS, EITHER UNDER THE SSS LAW OR THE GSIS LAW, THE CLAIM FOR THE SAME BENEFITS SHOULD BE CONSIDERED AS FILED. (207a; B.R. NO. 10-03-45, MARCH 17, 2010)

Art. 197. Erroneous Payment.

- (a) If the System in good faith pays income benefit to a dependentS who is ARE inferior in right to another dependents or with whom another dependents is ARE entitled to share, such payment shall discharge the System from liability, unless and until such other dependentS notifiesy the System of his THEIR claim prior to the payments.
- (b) In case of doubt as to the respective rights of rival claimants, the System is hereby empowered to determine as to whom payments should be made in accordance with such regulations as the Commission may approve. If the money is payable to a minorS or incompetentS, payment shall be made by the System to such ~~person~~ or persons as it may consider to be best qualified to take care and dispose of the minor's or incompetent's property for his THEIR benefit. (208a)

Art. 198. Prohibition. No agent, attorney or other person pursuing or in charge of the preparation or filing of any claim for benefit under this Title shall demand or charge for his THEIR services any fee, and any stipulation to the contrary shall be null and void.

The retention or deduction of any amount from any benefit granted under this Title for the payment of fees of such services is prohibited. IN CASE OF VIOLATION OF THIS PROVISION, THE CLAIMANT MAY REPORT THE SAME TO THE COMMISSION.

Violation of any provision of this Article shall be punishable by a fine of not less than ~~Five Hundred Pesos nor more than Five Thousand Pesos~~ TEN THOUSAND PESOS (P10,000.00) NOR MORE THAN TWENTY THOUSAND PESOS (P20,000.00), or imprisonment for not less than six (6) months nor more than one (1) year, or both, at the discretion of the court. (209a)

Art. 199. Exemption from Levy, Tax, etc. All laws to the contrary notwithstanding, the State Insurance Fund and all its assets shall be exempt from any tax, fee, charge, levy, or customs or import duty, and no law hereafter enacted shall apply to the State Insurance Fund unless it is provided therein that the same is applicable by expressly stating its name. (210)

Chapter IX

RECORDS, REPORTS AND PENAL PROVISIONS

Art. 200. Record of Death or Disability.

- (a) All employers shall keep a ~~logbook~~ to record ~~chronologically~~ OF the sickness, injury or death of their employees, IN CHRONOLOGICAL ORDER, setting forth therein their names, dates and places of the contingency, nature of the contingency and absences.
- (b) Entries in the ~~logbook~~ RECORD shall be made within five (5) days from notice or knowledge of the occurrence of the contingency.
- (c) Within five (5) days after entry in the ~~logbook~~ RECORD, the employerS shall report to the system only those contingencies ~~he~~ THEY deems to be work-connected.
- (d) All entries in the ~~employer's logbook~~ RECORD shall be made by the employerS or any of ~~his~~ THEIR authorized officials after verification of the contingencies or the ~~employee's~~ employees' absences for a period of a day or more.
- (e) Upon request by the System, ~~the~~ employerS shall furnish the necessary certificate regarding information about any contingency appearing in the ~~logbook~~ RECORD, citing the entry number, page number and date. Such ~~logbook~~ RECORD shall be made available for inspection to the duly authorized representatives of the system.

- (f) Should ~~any~~ employerS fail to record an actual sickness, injury or death of any of ~~his~~ THEIR employees within the period prescribed herein, give false information or withhold material information already in ~~his~~ THEIR possession, ~~he~~ THEY shall be held liable for fifty percent (50%) of the lump sum equivalent of the income benefit to which ~~the~~ employeeS may be found to be entitled, the payment of which shall accrue to the State Insurance Fund.
- (g) In case of payment of benefits for any claim which is later determined to be fraudulent and ~~the~~ employerS ~~is~~ ARE found to be a party to the fraud, such employerS shall reimburse TO the System the full amount of the compensation paid. (211a)

Art. 201. Notice of Sickness, Injury or Death. Notice of sickness, injury or death shall be given to the employerS by the employeeS or by ~~his~~ THEIR dependents or anybody on ~~his~~ THEIR behalf within five (5) days from the occurrence of the contingency. No notice to the employerS shall be required if the contingencyIES ~~is~~ARE known to the employerS or ~~his~~ THEIR agents or representatives. (212a)

ART. 202. REPORT OF CONTINGENCIES IN THE WORKPLACE. EMPLOYERS SHALL SUBMIT A REPORT OF THE CONTINGENCIES OCCURRING IN THE WORKPLACE TO THE REGIONAL OFFICES OF THE DOLE. (new)

Art. 203. Penal Provisions.

- (a) The penal provisionS of ~~Republic Act Numbered Eleven Hundred Sixty One NOS. 1161 AND 8282, as amended, and Commonwealth Act Numbered One Hundred Eighty Six NO. 186, as amended, AND REPUBLIC ACT NOS. 1161 AND 8291~~ THE LAWS GOVERNING THE SSS AND THE GSIS, 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~~ PersonS, 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~~ THEM 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~~ ONE HUNDRED THOUSAND PESOS (P100,000.00) NOR MORE THAN ~~Five Thousand Pesos~~ FIVE HUNDRED THOUSAND PESOS (P500,000.00) and an imprisonment for not less than six (6) ~~months~~ YEARS AND ONE DAY nor more than ~~one year~~ TWELVE (12) YEARS, at the discretion of the court.

- (c) If the act penalized by this Article is committed by ~~any personS~~ who ~~has~~ HAVE been or ~~is~~ ARE employed by the Commission or System, or a ~~recidivistS~~, the imprisonment shall not be less than one year; if committed by ~~lawyerS~~, ~~physicianS~~ or other ~~professionalS~~, ~~he~~ THEY shall, in addition to the penalty prescribed herein, be disqualified from the practice of ~~his~~ THEIR profession; and if committed by ~~any officialS~~, ~~employeeS~~ or ~~personnel~~ of the Commission, System or any government agency, ~~he~~ THEY shall, in addition to the penalty prescribed herein, be dismissed with prejudice to reemployment in the government service. (213a)

Art. 204. Applicability. This Title shall apply only to WORK-RELATED injury, sickness, disability or death occurring on or after ~~January 1, 1975~~ THE EFFECTIVITY OF THIS CODE. (214a)

Art. 205. Repeal OF LAWS. All existing laws, Presidential Decrees and Letter 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~~ THIS Code, as amended: *Provided, However*, That the formulas for THE computation of benefits, as well as the contribution base, shall be those provided for under ~~Commonwealth Act Numbered One Hundred Eighty Six, as amended by Presidential Decree No. 1146~~, THE LAW GOVERNING THE GSIS, plus twenty percent (20%) thereof. (215a)

~~Title III~~
~~MEDICARE~~
Title III
ADULT EDUCATION

Art. 206. Adult Education. ~~Every~~ ALL employerS 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~~DOLE and the Department of Education, ~~Culture and Sports~~. (217a)

Book Five
Labor Relations

Art. 207. Declaration of Policy.

A. It is the policy of the State:

- (a) To promote and emphasize the primacy of free collective bargaining and negotiations and the use of alternative modes of dispute resolution, including mediation, as modes of settling industrial or labor disputes;
- (b) To promote free trade unionism as an instrument for the enhancement of democracy and the promotion of social justice and development;
- (c) To foster the free and voluntary organization of a strong and united labor movement;
- (d) To promote the enlightenment of workers concerning their rights and obligations as union members and as employees;
- (e) To provide an adequate administrative machinery for the expeditious settlement of industrial and labor disputes;
- (f) To ensure a stable but dynamic and just industrial peace; and
- (g) To ensure the participation of workers in decision and policy-making processes affecting their rights, duties and welfare.

B. 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, no court or administrative agency or official shall have the

power to set or fix wages, rates of pay, hours of work or other terms and conditions of employment, except as otherwise provided under this Code. (218)

Chapter II DEFINITIONS

Art. 208. Definitions.

~~(a) "Commission" means the National Labor Relations Commission or any of its divisions, as the case may be, as provided under this Code.~~

(a) d-organization or collective bargaining, OR A PERSON WHO WORKS OR IS EMPLOYED IN PLACE OF OTHERS WHO ARE ON STRIKE. (219a)

Title II RESOLUTION OF INDUSTRIAL AND LABOR DISPUTES

Chapter I CREATION AND COMPOSITION

ART. 209. A. COURT OF LABOR RELATIONS. THERE IS HEREBY ESTABLISHED A JUDICIAL BODY, KNOWN AS THE COURT OF LABOR RELATIONS (CLR), A LABOR-DISPUTE RESOLUTION BODY TASKED TO PROMOTE AND MAINTAIN INDUSTRIAL PEACE BY RESOLVING INDUSTRIAL AND LABOR DISPUTES. ALL UNEXPENDED FUNDS, PROPERTIES, EQUIPMENT AND RECORDS OF THE COMMISSION, AND SUCH OF ITS PERSONNEL AS MAY BE NECESSARY, ARE HEREBY TRANSFERRED TO THE CLR WHICH SHALL BE UNDER THE ADMINISTRATIVE AND FISCAL SUPERVISION OF THE SUPREME COURT.

B. MEDIATORS. EACH MEDIATOR SHALL BE APPOINTED BY THE SUPREME COURT, PROVIDED THAT EACH MEDIATOR SHOULD:

(1) HAVE AT LEAST FIVE (5) YEARS OF EXPERIENCE IN HANDLING INDUSTRIAL OR LABOR MATTERS;

- (2) HAVE AT LEAST ONE HUNDRED TWENTY (120) HOURS OF RELEVANT TRAINING ON ALTERNATIVE DISPUTE RESOLUTION GIVEN BY AN INSTITUTION ACCREDITED BY THE CLR OR BY THE OFFICE FOR ALTERNATIVE DISPUTE RESOLUTION CREATED UNDER REPUBLIC ACT NO. 9285; AND
- (3) AFTER BEING APPOINTED, UNDERGO REGULAR TRAINING ON ALTERNATIVE DISPUTE RESOLUTION GIVEN BY AN ACCREDITED INSTITUTION OF THE CLR OR BY THE OFFICE FOR ALTERNATIVE DISPUTE RESOLUTION CREATED UNDER REPUBLIC ACT NO. 9285.

MEDIATORS SHALL HOLD OFFICE DURING GOOD BEHAVIOR UNTIL THEY REACH SIXTY-FIVE (65) YEARS OF AGE OR UNLESS SOONER REMOVED FOR VIOLATION OF THEIR DUTIES UNDER THE LAW OR RULES OR BECOME INCAPACITATED TO DISCHARGE THE DUTIES OF THEIR OFFICE.

THE SUPREME COURT SHALL FORMULATE AND ISSUE A CODE OF CONDUCT FOR MEDIATORS IN INDUSTRIAL AND LABOR DISPUTES, WHICH SHALL PROVIDE FOR THE STANDARD OF CONDUCT EXPECTED FROM ALL MEDIATORS OF THE CLR IN DISCHARGING THEIR DUTIES. VIOLATION OF SAID CODE OF CONDUCT SHALL BE A GROUND TO DISMISS A MEDIATOR FROM OFFICE.

C. JUDGES. JUDGES MAY BE CALLED UPON BY THE CLR TO HEAR AND DECIDE AN INDUSTRIAL OR LABOR DISPUTE PROVIDED THAT THEY ARE MEMBERS OF THE BAR IN GOOD STANDING AND LISTED IN THE CLR'S OFFICIAL LIST OF JUDGES. FOR THIS PURPOSE, THE CLR SHALL MAINTAIN A LIST OF ACCREDITED JUDGES, WHICH SHALL BE REVIEWED ANNUALLY BY THE SUPREME COURT.

IN ADDITION TO PROCEDURES AND REQUIREMENTS DETERMINED BY THE SUPREME COURT, ACCREDITATION SHALL ENSURE THAT JUDGES ARE PERSONS OF DISTINCTION IN WHOM EMPLOYERS, EMPLOYEES, EMPLOYEES' GROUPS AND THE GOVERNMENT CAN HAVE TRUST AND CONFIDENCE. JUDGES SHOULD HAVE AT LEAST TEN (10) YEARS OF

PRACTICE AND AT LEAST FIVE (5) YEARS OF EXPERIENCE IN HANDLING INDUSTRIAL OR LABOR MATTERS. THEY SHALL HAVE NO PERSONAL OR FINANCIAL INTEREST IN THE RESULTS OF THE PROCEEDINGS IN WHICH THEY ARE APPOINTED AND SHALL HAVE NO RELATION TO THE UNDERLYING DISPUTE OR TO THE PARTIES OR THEIR COUNSEL THAT MAY CREATE AN APPEARANCE OF BIAS.

D. STAFF. THE SUPREME COURT SHALL APPOINT THE STAFF AND EMPLOYEES OF THE CLR AND ITS REGIONAL BRANCHES, INCLUDING SHERIFFS, AS THE NEEDS OF THE SERVICE MAY REQUIRE, SUBJECT TO THE CIVIL SERVICE LAW, RULES, AND REGULATIONS. (new)

CHAPTER II POWERS AND DUTIES

Art. 210. Jurisdiction of the Labor Arbiters and the Commission COURT OF LABOR RELATIONS. ~~(a) Except as otherwise provided under this Code, the Labor Arbiters~~ THE CLR shall have the exclusive and original jurisdiction to hear and decide ~~within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following~~ upon cases of all workers, whether agricultural or non-agricultural, TO WIT:

- (1) Unfair Labor Practice cases;
- (2) Termination disputes EXCEPT DISPUTES IN ORGANIZED ESTABLISHMENTS, WHICH INVOLVE THE IMPLEMENTATION OR ENFORCEMENT OF COMPANY PERSONNEL POLICIES;
- (3) ~~If accompanied with a claim for reinstatement, those~~ Cases involving wages, rates of pay, hours of work and other terms and conditions of employment;
- (4) Claims for actual, moral, exemplary and other forms of damages arising from employer-employee relationship;
- ~~5. Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts~~
- (5) WAGE DISTORTION DISPUTES IN UNORGANIZED ESTABLISHMENTS;
- (6) ENFORCEMENT OF COMPROMISE AGREEMENTS;

- (7) MONEY CLAIMS ARISING OUT OF EMPLOYER-EMPLOYEE RELATIONSHIP OR BY VIRTUE OF LAW OR CONTRACT;
- (8) ~~Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other~~ Cases involving claims arising from an employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement RELATIONSHIP OF OVERSEAS FILIPINO WORKERS PURSUANT TO REPUBLIC ACT 8042, AS AMENDED, OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995;
- (9) CASES ARISING FROM VIOLATION OF PROVISIONS OF THE LABOR CODE.
- (10) CLAIMS INVOLVING INJUNCTION AND TEMPORARY RESTRAINING ORDERS ARISING FROM THE DISPUTES ENUMERATED HEREIN; AND
- (11) OTHER CASES AS MAY BE PROVIDED BY LAW.

~~(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.~~

~~(c) Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements.~~

NO CLAIM, COMPLAINT OR PETITION, INCLUDING THOSE FOR RESTRAINING ORDERS OR INJUNCTIVE RELIEF, ARISING OUT OF, RELATED TO, OR INVOLVING THE ABOVE DISPUTES SHALL BE HEARD OR DECIDED BY ANY OTHER COURT OR TRIBUNAL, EXCEPT BY THE SUPREME COURT, WHICH MAY GIVE DUE COURSE TO A PETITION FOR CERTIORARI INVOLVING AN AWARD OF THE CLR JUDGES.

HOWEVER, REGISTRATION OF LABOR ORGANIZATIONS AND PROCEEDINGS TO DETERMINE MAJORITY REPRESENTATION AMONG EMPLOYEES SHALL CONTINUE TO BE FILED WITH THE APPROPRIATE

REGIONAL OFFICE AND SHALL NOT BE WITHIN THE JURISDICTION OF THE CLR AS HEREIN DEFINED. (224a)

ART. 211. A. IMMEDIATE REFERRAL TO MEDIATION. ALL DISPUTES FILED WITH THE CLR SHALL IMMEDIATELY BE REFERRED TO A MEDIATOR WHO SHALL MEDIATE BETWEEN THE PARTIES FOR A PERIOD NOT EXCEEDING SIXTY (60) CALENDAR DAYS FROM THE DATE OF THE INITIAL CONFERENCE WITHOUT EXTENSION. AFTER A CLAIM IS FILED, THE CLR SHALL SET THE CASE FOR PRELIMINARY CONFERENCE AND SEND THE NOTICE TO THE PARTIES NOT LATER THAN FIVE (5) DAYS AFTER REFERRAL TO A MEDIATOR.

THE MEDIATOR SHALL BE CHOSEN BY THE CLR UPON CONSIDERING THE NATURE AND COMPLEXITY OF THE CLAIMS AS WELL AS THE PREFERENCES OF THE PARTIES, IF KNOWN. ONE (1) MEDIATOR WILL BE APPOINTED UNLESS THE CLR DETERMINES THAT ANOTHER NUMBER IS MORE APPROPRIATE TO THE CIRCUMSTANCES OF THE CASE.

IN ALL DISPUTES, NO PERSON SHALL SERVE AS A MEDIATOR IN ANY DISPUTE IN WHICH THAT PERSON HAS ANY FINANCIAL OR PERSONAL INTEREST IN THE RESULT OF THE MEDIATION, EXCEPT BY THE WRITTEN CONSENT OF ALL PARTIES. PRIOR TO ACCEPTING AN APPOINTMENT, THE PROSPECTIVE MEDIATOR SHALL DISCLOSE ANY CIRCUMSTANCE LIKELY TO CREATE A PRESUMPTION OR APPEARANCE OF BIAS. UPON RECEIPT OF SUCH INFORMATION, THE CLR SHALL EITHER REPLACE THE MEDIATOR OR IMMEDIATELY COMMUNICATE THE INFORMATION TO THE PARTIES FOR THEIR COMMENTS. THE CLR IS AUTHORIZED TO APPOINT ANOTHER MEDIATOR IF THE APPOINTED MEDIATOR IS UNABLE TO SERVE PROMPTLY.

B. PROCESS OF MEDIATION.

1. REPRESENTATION. ANY PARTY MAY BE REPRESENTED BY A PERSON OF THE PARTY'S CHOICE. THE NAMES AND ADDRESSES OF SUCH PERSONS

SHALL BE COMMUNICATED BY THE RESPECTIVE PARTIES IN WRITING TO ALL PARTIES AND TO THE CLR.

2. DATE, TIME, AND PLACE OF MEDIATION. THE MEDIATOR SHALL FIX THE DATE AND THE TIME OF EACH MEDIATION SESSION. THE MEDIATION SHALL BE HELD AT THE APPROPRIATE REGIONAL OFFICE OF THE CLR, OR AT ANY OTHER CONVENIENT LOCATION AGREEABLE TO THE MEDIATOR AND THE PARTIES, AS THE MEDIATOR SHALL DETERMINE.

3. IDENTIFICATION OF MATTERS IN DISPUTE. THE MEDIATOR SHALL EXERCISE COMPLETE CONTROL OVER ALL MEDIATION PROCEEDINGS IN PURSUIT OF A JUST, ADEQUATE, AND SPEEDY AGREEMENT BETWEEN THE PARTIES. DURING THE FIRST HEARING, THE MEDIATOR SHALL IDENTIFY THE ISSUES INVOLVED AND THE RESPECTIVE OPINIONS OF THE PARTIES THERETO. THE PARTIES WILL BE EXPECTED TO PRODUCE ALL INFORMATION REASONABLY REQUIRED FOR THE MEDIATOR TO UNDERSTAND THE ISSUES PRESENTED. FOR THIS PURPOSE, THE MEDIATOR MAY ISSUE SUBPOENAS *DUCES TECUM* AND SUBPOENAS *AD TESTIFICANDUM* TO REQUIRE THE PRODUCTION OF NECESSARY DOCUMENTS, PROPERTY, OR PERSONS AND MAY CITE PERSONS IN VIOLATION OF SUCH ORDERS IN CONTEMPT.

4. AUTHORITY OF MEDIATOR. THE MEDIATOR DOES NOT HAVE THE AUTHORITY TO IMPOSE A SETTLEMENT ON THE PARTIES BUT WILL ATTEMPT TO HELP THEM REACH A SATISFACTORY RESOLUTION OF THEIR DISPUTE. THE MEDIATOR IS AUTHORIZED TO CONDUCT JOINT AND SEPARATE MEETINGS WITH THE PARTIES AND SHALL MAKE WRITTEN RECOMMENDATIONS FOR SETTLEMENT. WHENEVER NECESSARY, THE MEDIATOR MAY ALSO OBTAIN EXPERT ADVICE CONCERNING TECHNICAL ASPECTS OF THE DISPUTE.

THE MEDIATOR MAY SEEK THE AGREEMENT OF THE PARTIES TO RESORT TO VARIOUS METHODS OF ADR INCLUDING CONCILIATION, MEDIATION, AND ARBITRATION.

THE MEDIATOR IS AUTHORIZED TO END THE MEDIATION UPON THE EXECUTION OF A SETTLEMENT AGREEMENT BY THE PARTIES, WHICH SHALL BE DULY ATTESTED BY THE MEDIATOR. ANY SETTLEMENT REACHED BY THE PARTIES DULY ATTESTED BY THE MEDIATOR SHALL BE BINDING BETWEEN THE PARTIES AND MAY BE EXECUTED AS PROVIDED IN ARTICLE 216.

THE MEDIATOR IS AUTHORIZED TO END THE MEDIATION BY A WRITTEN DECLARATION OF A PARTY OR PARTIES TO THE EFFECT THAT THE MEDIATION PROCEEDINGS ARE TERMINATED OR WHENEVER, IN THE JUDGMENT OF THE MEDIATOR, FURTHER EFFORTS AT MEDIATION WOULD NOT CONTRIBUTE TO A RESOLUTION OF THE DISPUTE BETWEEN THE PARTIES.

5. PRIVACY. MEDIATION SESSIONS ARE PRIVATE AND INFORMATION GENERATED THEREFROM IS CONFIDENTIAL. THE PARTIES AND THEIR REPRESENTATIVES MAY ATTEND MEDIATION SESSIONS, BUT OTHER PERSONS MAY ATTEND ONLY WITH THE PERMISSION OF THE PARTIES AND WITH THE CONSENT OF THE MEDIATOR.

6. CONFIDENTIALITY. MEDIATION PROCEEDINGS SHALL BE CONSIDERED CONFIDENTIAL AND INFORMATION OBTAINED THEREIN SHALL NOT BE PUBLISHED OR DISCLOSED TO THIRD PARTIES EXCEPT (I) WITH THE CONSENT OF THE PARTIES, OR (II) WHEN NECESSARY, IN CASES WHERE RESORT TO THE COURT IS MADE UNDER THE RULES OF COURT.

THE CONFIDENTIALITY OF THE PROCEEDINGS SHALL INCLUDE COMMUNICATIONS TO OR FROM THE MEDIATOR AND ALL RECORDS, REPORTS, OR OTHER DOCUMENTS RECEIVED BY A MEDIATOR WHILE SERVING IN THAT CAPACITY. CONFIDENTIAL INFORMATION DISCLOSED TO A MEDIATOR BY THE PARTIES OR BY WITNESSES IN THE COURSE OF THE MEDIATION SHALL NOT BE DIVULGED BY THE MEDIATOR. THE MEDIATOR SHALL NOT BE COMPELLED TO DIVULGE SUCH RECORDS OR

TO TESTIFY IN REGARD TO THE MEDIATION IN ANY ADVERSARY PROCEEDING OR JUDICIAL FORUM.

ANY VIOLATION OF THE CONFIDENTIALITY OF THE PROCEEDINGS SHALL BE SUBJECT TO THE FOLLOWING SANCTIONS:

1. WITHOUT PREJUDICE TO THE FOLLOWING PARAGRAPH, ADMINISTRATIVE ACTION OR PROCEEDING TO BE CONDUCTED BY THE CLR, WITH PROPER NOTICE AND HEARING, FOR INHIBITION OR PROHIBITION FROM APPEARING AS MEDIATOR, JUDGE, COUNSEL OR REPRESENTATIVE FOR ANY PARTY IN ANY CASE;
2. IF ~~THE~~ ANY VIOLATORS ARE PROFESSIONALS, ADMINISTRATIVE/DISCIPLINARY ACTION BEFORE THE APPROPRIATE AUTHORITY, INCLUDING THE SUPREME COURT AND PROFESSIONAL REGULATION COMMISSION, AT THE INSTANCE OF ANY PARTY OR OF THE CLR. (new)

ART. 212. REFERRAL TO ARBITRATION. IN CASE OF FAILURE OF MEDIATION, THE MEDIATOR SHALL ACCOMPLISH A REPORT TO THIS EFFECT AND AUTOMATICALLY REFER THE CASE TO THE JUDGES, EXCEPT IF BOTH PARTIES EXPRESS IN WRITING THEIR REFUSAL TO DO SO.

FOR PURPOSES OF THIS TITLE, THERE IS A FAILURE OF MEDIATION IN ANY OF THE FOLLOWING CASES:

- (1) WHERE PARTIES FAIL TO REACH AN AMICABLE SETTLEMENT AFTER THE LAPSE OF SIXTY (60) CALENDAR DAYS FROM THE DATE OF THE INITIAL MEDIATION CONFERENCE;
- (2) REGARDLESS OF PARAGRAPH (1), WHERE ANY PARTIES WHO ARE NECESSARY TO REACH A COMPLETE SETTLEMENT OF THE CLAIM FAILS OR REFUSES TO PARTICIPATE IN THE MEDIATION; OR
- (3) REGARDLESS OF PARAGRAPH (1), WHERE THE MEDIATOR REACHES THE CONCLUSION THAT THE PARTIES WILL NOT REACH AN AMICABLE SETTLEMENT OR THAT FURTHER EFFORTS AT MEDIATION ARE NO LONGER WORTHWHILE.

IN ALL CASES, THERE MAY BE A FAILURE OF MEDIATION WITH REGARD TO SOME OR NOT ALL OF THE CLAIMS BROUGHT TO MEDIATION. IN THIS CASE, FAILURE OF MEDIATION MAY BE DECLARED ONLY WITH REGARD TO THE UNRESOLVED CLAIMS. (new)

ART. 213. A. START OF PROCEEDINGS BEFORE THE JUDGES.
PROCEEDINGS BEFORE THE JUDGES ARE DEEMED COMMENCED FROM THE TIME THAT THE CLR ISSUES A REPORT DECLARING A FAILURE OF MEDIATION AND AT LEAST ONE (1) PARTY EXPRESSES AN INTENT, IN WRITING, TO REFER THE DISPUTE TO ARBITRATION.

B. JUDGES.

- (1) THE JUDICIAL FUNCTIONS IN THE CLR SHALL BE VESTED IN JUDGES TO BE APPOINTED AND COMMISSIONED IN THE SAME MANNER AS JUDGES OF REGIONAL TRIAL COURTS.
- (2) THE JUDGES OF THE CLR SHALL SERVE DURING GOOD BEHAVIOR UNTIL THEY REACH THE AGE OF SEVENTY (70) YEARS, OR BECOME INCAPACITATED TO DISCHARGE THE DUTIES OF THEIR OFFICE, UNLESS SOONER REMOVED IN ACCORDANCE WITH LAW.
- (3) NO PERSON SHALL BE APPOINTED AS JUDGES, UNLESS THEY ARE A CITIZEN OF THE PHILIPPINES, A MEMBER OF THE BAR IN GOOD STANDING WHO HAS PRACTICED LABOR LAW IN THE PHILIPPINES FOR A PERIOD OF AT LEAST TEN (10) YEARS, WITH AT LEAST FIVE (5) YEARS' EXPERIENCE IN INDUSTRIAL RELATIONS OR LABOR LAW AS AN INDISPENSABLE REQUISITE.
- (4) JUDGES OF THE CLR SHALL HAVE THE SAME RANK, RECEIVE AN ANNUAL SALARY EQUIVALENT TO AND BE ENTITLED TO THE SAME ALLOWANCES, RETIREMENT GRATUITY AND OTHER BENEFITS AND PRIVILEGES AS THOSE OF THE JUDGES OF THE REGIONAL TRIAL COURTS PURSUANT TO REPUBLIC ACT NO. 9347 IN RELATION TO REPUBLIC ACT NO. 910, AS AMENDED BY REPUBLIC ACT NO. 9227 AND BY OTHER APPLICABLE LAWS.

ALL COMPLAINTS AND PETITIONS FILED WITH THE DOCKET UNIT OF THE CLR SHALL BE IMMEDIATELY RAFFLED AND ASSIGNED TO A JUDGE FROM RECEIPT THEREOF.

THE CLR SHALL BE RESPONSIBLE FOR THE IMMEDIATE RAFFLE AND ASSIGNMENT OF ALL COMPLAINTS AND PETITIONS FILED WITH ITS BRANCH, AND THE IMMEDIATE FORWARDING OF ALL SUBSEQUENT PLEADINGS AND MOTIONS.

ALL PLEADINGS AND MOTIONS SUBSEQUENT TO THE FILING OF THE COMPLAINT SHALL BE FORWARDED TO THE JUDGE BEFORE WHOM THE CASE IS PENDING WITHIN TWENTY-FOUR (24) HOURS FROM RECEIPT THEREOF. (new)

ART 214. PROCEDURE OF ARBITRATION. A. NATURE OF PROCEEDINGS BEFORE THE COURT OF LABOR RELATIONS. BEING A COURT WITH SPECIALIZED JURISDICTION, PROCEEDINGS BEFORE THE CLR SHALL BE SUMMARY AND NON-LITIGIOUS IN NATURE; *PROVIDED, HOWEVER,* THAT SUBJECT TO THE REQUIREMENTS OF DUE PROCESS, THE TECHNICALITIES OF LAW AND PROCEDURE OBTAINING IN THE REGULAR COURTS OF LAW SHALL NOT STRICTLY APPLY THERETO.

IN ALL CASES, THE AFFIDAVITS SUBMITTED BY THE PARTIES SHALL CONSTITUTE THE DIRECT TESTIMONIES OF THE PERSONS WHO EXECUTED THE SAME. ALL AFFIANTS MAY BE SUBJECTED TO CROSS-EXAMINATION, REDIRECT, OR RE-CROSS EXAMINATION BY THE JUDGE(S) *MOTU PROPRIO* OR BY ANY APPROPRIATE PARTY UPON MOTION. THE AFFIDAVIT OF ANY AFFIANT WHO FAILS TO TESTIFY SHALL NOT BE CONSIDERED AS COMPETENT EVIDENCE FOR THE PARTY PRESENTING THE AFFIDAVIT. HOWEVER, THE ADVERSE PARTY MAY UTILIZE THE SAME FOR ANY ADMISSIBLE PURPOSE.

THE PARTIES MAY OFFER SUCH EVIDENCE AS IS RELEVANT AND MATERIAL TO THE DISPUTE AND SHALL PRODUCE SUCH EVIDENCE AS

THE JUDGE(S) DEEMS NECESSARY TO AN UNDERSTANDING AND DETERMINATION OF THE DISPUTE. THE JUDGE(S) SHALL HAVE THE AUTHORITY TO ISSUE SUBPOENAS *DUCES TECUM* AND SUBPOENAS *AD TESTIFICANDUM* TO REQUIRE THE PRODUCTION OF DOCUMENTS, EVIDENCE, OR PERSONS TO GIVE TESTIMONY RELEVANT TO THE DISPUTE. THE JUDGE(S) SHALL ALSO HAVE THE AUTHORITY TO ADMINISTER OATHS TO WITNESSES.

ALL PARTIES TO THE DISPUTE MUST ATTEND THE PROCEEDINGS ON PAIN OF CONTEMPT. THE ATTENDANCE OF ANY THIRD PARTY OR THE EXCLUSION OF ANY WITNESS FROM THE PROCEEDINGS SHALL BE DETERMINED BY THE JUDGE(S).

B. DETERMINATIONS. AT THE FIRST HEARING, THE JUDGE(S) SHALL EXERT ALL EFFORTS TO EXPLORE AND RESOLVE MATTERS THAT WILL EXPEDITE THE PROCEEDINGS. PROHIBITED PLEADINGS SHALL BE DETERMINED UNDER THE RULES OF PROCEDURE PROMULGATED BY THE SUPREME COURT. IN PARTICULAR, THE JUDGE(S) MUST DETERMINE THE FOLLOWING:

- (1) THE ISSUES TO BE DETERMINED;
- (2) THE RULES AND PROCEDURE TO BE ADOPTED INCLUDING THE SEQUENCE OF PRESENTATION OF EVIDENCE BY THE PARTIES;
- (3) THE DATE, TIME, PLACE AND ESTIMATED DURATION OF THE SUCCESSIVE HEARINGS;
- (4) THE STIPULATIONS AND DECLARATIONS REGARDING FACTS, EXHIBITS, WITNESSES AND OTHER ISSUES;
- (5) THE NAMES OF WITNESSES (INCLUDING EXPERT WITNESSES), THE SCOPE OF WITNESS TESTIMONY, AND WITNESS EXCLUSION;
- (6) THE NEED FOR A STENOGRAPHIC RECORD;
- (7) THE FORM OF THE AWARD;
- (8) THE ALLOCATION OF ATTORNEY'S FEES AND COSTS; AND

(9) ANY OTHER ISSUES RELATING TO THE SUBJECT OR CONDUCT OF THE PROCEEDINGS. (new)

ART. 215. AWARD. UNLESS THE PARTIES EXPRESSLY AGREE OTHERWISE IN WRITING, IT SHALL BE MANDATORY FOR THE JUDGE TO RENDER AN AWARD WITHIN NINETY (90) CALENDAR DAYS FROM THE DATE OF ACCEPTANCE OF THE ARBITRATION. FAILURE ON THE PART OF THE JUDGE TO ISSUE AN AWARD OR DECISION WITHIN THE STIPULATED PERIOD SHALL CONSTITUTE SUFFICIENT GROUND FOR THE IMPOSITION OF DISCIPLINARY PENALTIES.

PARTIES SHALL SUBMIT THEIR RESPECTIVE DRAFT AWARD, RESOLUTION OR DECISION WHICH SHALL EMBODY ALL THE PERTINENT PROVISIONS OF LAW, RULES AND REGULATIONS AND JURISPRUDENCE FOR THE CONSIDERATION OF THE COURT.

THE AWARD, RESOLUTION OR DECISION OF THE JUDGE SHALL CONTAIN THE FACTS AND THE LAW ON WHICH IT IS BASED. THE JUDGE SHALL ENTERTAIN ONLY ONE (1) MOTION FOR RECONSIDERATION FROM THE SAME PARTY WITHIN THE PERIOD WHEN THE AWARD OR DECISION HAS NOT BECOME FINAL AND EXECUTORY. IT SHALL BE FINAL AND EXECUTORY AFTER TEN (10) CALENDAR DAYS FROM RECEIPT OF THE COPY OF THE AWARD OR DECISION BY THE PARTIES AND MAY ONLY BE BROUGHT BEFORE THE SUPREME COURT/COURT OF APPEALS THROUGH A SPECIAL CIVIL ACTION FOR CERTIORARI. DECISIONS, AWARDS, AND ORDERS OF THE JUDGE SHALL BE IMMEDIATELY EXECUTORY EVEN IN THE ABSENCE OF ANY MOTION FOR EXECUTION. (new)

Art. 216. Execution of decisions, orders or awards. (a) THROUGH A PROPER MOTION DIRECTED TO THE CLR, ANY INTERESTED PARTY MAY ENFORCE THE SETTLEMENT AGREEMENTS OR AWARDS RESULTING FROM MEDIATION OR ARBITRATION PROCEEDINGS IN THIS TITLE. UPON SUCH MOTION, the ~~Secretary of Labor and Employment or any Regional Director,~~ the

~~Commission or any Labor Arbiter, or Med Arbiter or Voluntary Arbitrator~~ CLR may ~~motu proprio or on motion of any interested party,~~ issue a writ of execution on a settlement agreement or arbitral award within five (5) years from the date it WAS REACHED OR becomes final and executory, requiring a THE sheriff or a ~~duly deputized officer~~ AUTHORIZED PERSON OF THE CLR TO execute ~~or enforce final decisions, orders or awards of the Secretary of Labor and Employment or regional director, the Commission, the Labor Arbiter or med arbiter, or voluntary arbitrators~~ THE SETTLEMENT AGREEMENT OR ARBITRAL AWARD. In any case, it shall be the duty of the responsible officer to immediately furnish the counsels of record and the parties with copies of said ~~decisions, orders or awards~~ SETTLEMENT AGREEMENT OR ARBITRAL AWARD. Failure to comply with the duty prescribed herein shall subject such responsible officer to appropriate administrative sanctions.

(230a)

~~(c) — The Secretary of Labor and Employment, and the Chairman of the Commission may designate special sheriffs and take any measure under existing laws to ensure compliance with their decisions, orders or awards and those of the Labor Arbiters and voluntary arbitrators, including the imposition of administrative fines which shall not be less than P500.00 nor more than P10,000.00. (As amended by Section 13, Republic Act No. 6715, March 21, 1989)~~

ART. 217. REPRESENTATION. PARTIES SHOULD PERSONALLY APPEAR BEFORE THE CLR AND ANY OF ITS MEDIATORS OR JUDGE: *PROVIDED* THAT JURIDICAL PERSONS MAY BE REPRESENTED BY ANY PERSON SPECIALLY AUTHORIZED IN WRITING TO DO SO. AT ANY PROCEEDING BEFORE THE CLR OR ANY OF ITS MEDIATORS OR JUDGE, NON-LAWYERS SHALL BE ALLOWED TO REPRESENT ANY PARTY IN THE FOLLOWING CASES:

- (1) THEY ARE REPRESENTING THEMSELVES;
- (2) THEY ARE REPRESENTING A CORPORATION OR BELONGS TO A LEGITIMATE LABOR ORGANIZATION;
- (3) THEY ARE AUTHORIZED UNDER THE STUDENT PRACTICE RULE UNDER RULE 138-A OF THE RULES OF COURT. (new)

ART. 218. INJUNCTIONS. A PETITION FOR INJUNCTION OR PETITION FOR MANDATORY INJUNCTION MAY BE FILED WITH THE CLR TO ENJOIN OR RESTRAIN ANY ACTUAL OR THREATENED COMMISSION OF ANY OR ALL PROHIBITED OR UNLAWFUL ACTS, OR TO REQUIRE THE PERFORMANCE OF A PARTICULAR ACT IN ANY INDUSTRIAL OR LABOR DISPUTE WHICH, IF NOT RESTRAINED OR PERFORMED FORTHWITH, MAY CAUSE GRAVE OR IRREPARABLE DAMAGE TO ANY PARTY OR RENDER INEFFECTUAL ANY DECISION IN FAVOR OF SUCH PARTY. THE PETITION FOR INJUNCTION OR PETITION FOR MANDATORY INJUNCTION SHALL AUTOMATICALLY BE REFERRED TO ARBITRATION; *PROVIDED*, THAT NO TEMPORARY OR PERMANENT INJUNCTION IN ANY CASE INVOLVING OR GROWING OUT OF AN INDUSTRIAL OR LABOR DISPUTE AS DEFINED IN THIS CODE SHALL BE ISSUED EXCEPT AFTER THE POSTING OF THE NECESSARY BOND AND HEARING THE TESTIMONY OF WITNESSES, WITH OPPORTUNITY FOR CROSS-EXAMINATION, IN SUPPORT OF THE ALLEGATIONS OF A COMPLAINT MADE UNDER OATH. (new)

Chapter III TRANSITORY PROVISIONS

Art. 219. Disposition of pending cases. All cases pending before the ~~Court of Industrial Relations and the~~ National Labor Relations (NLRC) established under Presidential Decree No. 21, AS AMENDED BY P.D. 442, on the date of effectivity of this Code shall be transferred to and processed by the ~~corresponding labor relations divisions or the National Labor Relations Commission~~ CLR created under this Code LAW having cognizance of the same in accordance with the procedure laid down herein and its implementing rules and regulations. ~~Cases on labor relations on appeal with the Secretary of Labor or the Office of the President of the Philippines as of the date of effectivity of this Code shall remain under their respective jurisdictions and shall be decided in accordance with the rules and regulations in force at the time of appeal.~~

~~All workmen's compensation cases pending before the Workmen's Compensation Units in the regional offices of the Department of Labor and those pending before the Workmen's Compensation Commission as of March 31, 1975, shall be processed and~~

~~adjudicated in accordance with the law, rules and procedure existing prior to the effectivity of the Employees Compensation and State Insurance Fund. (314a)~~

ART. 220. RETIREMENT OR SEPARATION OF NLRC COMMISSIONERS. CONSEQUENT TO THE ABOLITION OF THE NLRC, INCUMBENT COMMISSIONERS SHALL BE DEEMED COMPULSORILY RETIRED WITH FULL RETIREMENT GRATUITY AND PENSION PURSUANT TO REPUBLIC ACT NO. 910, AS AMENDED. THEY SHALL ALSO RECEIVE A SEPARATION PAY EQUIVALENT TO TWO (2) MONTHS' SALARY FOR EVERY YEAR OF SERVICE IN GOVERNMENT. (new)

ART. 221. PERSONNEL WHOSE SERVICES ARE TERMINATED. NLRC PERSONNEL WHOSE SERVICES ARE TERMINATED AS A RESULT OF THE IMPLEMENTATION OF THIS LAW SHALL ENJOY THE RIGHTS AND PROTECTION PROVIDED UNDER CIVIL SERVICE LAW, RULES AND REGULATIONS. (new)

ART. 222. OPTIONAL RETIREMENT OR SEVERANCE PAY FOR AN INCUMBENT LABOR ARBITER. WHEN INCUMBENT LABOR ARBITERS HAVE ATTAINED THE AGE OF SIXTY (60) YEARS AND HAVE RENDERED AT LEAST TWENTY (20) YEARS IN GOVERNMENT SERVICE, THE LAST FIVE (5) YEARS OF WHICH SHALL HAVE BEEN CONTINUOUSLY RENDERED AS LABOR ARBITERS, THEY SHALL BE QUALIFIED FOR OPTIONAL RETIREMENT. IF THEY LACK ANY ONE OF THE ABOVE QUALIFICATIONS, THEY SHALL BE ENTITLED TO A SEVERANCE PAY EQUIVALENT TO TWO (2) MONTHS' SALARY FOR EVERY YEAR OF GOVERNMENT SERVICE. THIS OPTION FOR AVAILING OF SEVERANCE PAY SHALL BE EXERCISED WITHIN A PERIOD OF SIXTY (60) CALENDAR DAYS AFTER THE EFFECTIVITY OF THIS ACT; OTHERWISE, SAID OPTION SHALL BE DEEMED WAIVED. (new)

ART. 223. SUBSEQUENT APPOINTMENTS TO THE REGIONAL COURT OF LABOR RELATIONS THE PRESIDENT SHALL APPOINT JUDGES TO THE CLR FROM A LIST OF AT LEAST THREE (3) NOMINEES PREPARED BY THE

JUDICIAL AND BAR COUNCIL; *PROVIDED*, THAT SAID NOMINEES SHALL MEET THE QUALIFICATIONS AS THOSE OF THE JUDGES OF THE REGIONAL TRIAL COURTS. SUCH APPOINTMENTS NEED NO CONFIRMATION. (new)

TITLE III
BUREAU OF LABOR RELATIONS

ART. 224. Bureau of Labor Relations. The Bureau of Labor Relations and the Labor Relations Divisions in the regional offices of the ~~Department of Labor~~ DOLE shall have 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 workplaces, whether agricultural or non-agricultural, except those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject of grievance procedure and/or voluntary arbitration.

The Bureau shall have fifteen (15) working days to act on labor cases before it, subject to extension by agreement of the parties. (232a)

ART. 225. Compromise agreements. Any compromise settlement, including those involving labor standard laws, voluntarily agreed upon by the parties with the assistance of the Bureau or the regional office of the ~~Department of Labor~~ DOLE, shall be final and binding upon the parties. The ~~National Labor Relations Commission~~ CLR or any court, shall not assume jurisdiction over issues involved therein except in case of non-compliance thereof or if there is prima facie evidence that the settlement was obtained through fraud, misrepresentation, or coercion. (233a)

ART. 226. Mandatory Conciliation and Endorsement of Cases.

- (a) Except as provided in Title VII-A, Book V of this Code, as amended, or as may be excepted by the ~~Secretary of Labor and Employment~~ SOLE, all issues arising from labor and employment shall be subject to mandatory conciliation-mediation. The ~~labor arbiter~~ JUDGE OF THE CLR or the appropriate DOLE agency or

office that has jurisdiction over the dispute shall entertain only endorsed or referred cases by the duly authorized officer.

- (b) Any or both parties involved in the dispute may pre-terminate the conciliation-mediation proceedings and request referral or endorsement to the appropriate DOLE agency or office which has jurisdiction over the dispute, or if both parties so agree, refer the unresolved issues to voluntary arbitration. (234a)

Art. 227. 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 request of any interested party or at its own initiative. (235)

Art. 228. Appointment of Bureau personnel. The ~~Secretary of Labor and Employment~~ SOLE may appoint, in addition to the present personnel of the Bureau and the Industrial Relations Divisions, such number of examiners and other assistants as may be necessary to carry out the purpose of the Code. ~~(As amended by Section 15, Republic Act No. 6715, March 21, 1989)~~ (236a)

Art. 229. Registry of unions and file of collective bargaining 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 voluntary arbitrators. The file shall be open and accessible to interested parties under conditions prescribed by the ~~Secretary of Labor and Employment~~ SOLE, provided that no specific information submitted in confidence shall be disclosed unless authorized by the ~~Secretary~~ SOLE, or when it is at issue in any judicial litigation, or when public interest or national security so requires.

Within thirty (30) days from the execution of a Collective Bargaining Agreement, the parties shall submit copies of the same directly to the Bureau or the Regional Offices of the ~~Department of Labor and Employment~~ DOLE for registration, accompanied with verified proofs of its posting in two conspicuous places in the place of work and ratification by the majority of all the workers in the bargaining unit. The Bureau or

Regional Offices shall act upon the application for registration of such Collective Bargaining Agreement within five (5) calendar days from receipt thereof. The Regional Offices shall furnish the Bureau with a copy of the Collective Bargaining Agreement within five (5) days from its submission.

The Bureau or Regional Office shall assess the employer for every Collective Bargaining Agreement a registration fee of not less than one thousand pesos (P1,000.00) or in any other amount as may be deemed appropriate and necessary by the ~~Secretary of Labor and Employment~~SOLE for the effective and efficient administration of the Voluntary Arbitration Program. Any amount collected under this provision shall accrue to the Special Voluntary Arbitration Fund.

The Bureau shall also maintain a file and shall undertake or assist in the publication of all final decisions, orders and awards of the ~~Secretary of Labor and Employment~~SOLE, Regional Directors and the ~~Commission~~CLR. (~~As amended by Section 15, Republic Act No. 6715, March 21, 1989~~) (237a)

Art. 230. Prohibition on certification election. The Bureau shall not entertain any petition for certification election or any other action which may disturb the administration of duly registered existing collective bargaining agreements affecting the parties except under Articles 253259, 253-A260 and 256263 of this Code. (~~As amended by Section 15, Republic Act No. 6715, March 21, 1989~~) (238a)

Art. 231. Privileged communication. Information and statements made at conciliation proceedings shall be treated as privileged communication and shall not be used as evidence in the ~~Commission~~ CLR. Conciliators and similar officials shall not testify in any court or body regarding any matters taken up at conciliation proceedings conducted by them. (239a)

Title IV

LABOR ORGANIZATIONS

Chapter I

REGISTRATION AND CANCELLATION

Art. 232. Requirements of Registration. A federation, national union or industry or trade union center or an independent union shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements:

- (a) Fifty pesos (P50.00) registration fee;
- (b) The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;
- (c) In case the applicant is an independent union, the names of all its members comprising at least ~~twenty percent~~ FIFTEEN PERCENT (15%) of all the employees in the bargaining unit where it seeks to operate;
- (d) If the applicant union has been in existence for one or more years, copies of its annual financial reports; and
- (e) ~~Four~~ ELECTRONIC copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it. (240a)

Art. 233. Chartering and Creation of a Local Chapter. A duly registered federation or national union may directly create a local chapter by issuing a charter certificate indicating the establishment of the local chapter. The chapter shall acquire legal personality only for purposes of filing a petition for certification election from the date it was issued a charter certificate.

The chapter shall be entitled to all other rights and privileges of a legitimate labor organization only upon the submission of the following documents in addition to its charter certificate:

- (a) The names of the chapter's officers, their addresses, and the principal office of the chapter; and
- (b) The chapter's constitution and by-laws: *Provided*, That where the chapter's constitution and by-laws are the same as that of the federation or the national union, this fact shall be indicated accordingly.

The additional supporting requirements shall be certified under oath by the secretary or treasurer of the chapter and attested by its president. (241)

Art. 234. Action on Application. The Bureau shall act on all applications for registration within thirty (30) days from filing.

All requisite documents and papers shall be certified under oath by the secretary or the treasurer of the organization, as the case may be, and attested to by its president. (242)

Art. 235. Denial of Registration; Appeal. The decision of the Labor Relations Division in the regional office denying registration may be appealed by the applicant union to the Bureau within ten (10) days from receipt of notice thereof. (243)

Art. 236. Additional Requirements for Federations or National Unions. ~~Subject to Article 238,~~ If the applicant for registration is a federation or a national union, it shall, in addition to the requirements of the preceding Articles, submit the following:

- (a) Proof of the affiliation of at least ten (10) locals or chapters, each of which must be a duly recognized collective bargaining agent in the establishment or industry in which it operates, supporting the registration of such applicant federation or national union; and
- (b) The names and addresses of the companies where the locals or chapters operate and the list of all the members in each company involved. (244a)

Art. 237. Cancellation of Registration. The certificate of registration of any legitimate labor organization, whether national or local, may be cancelled by the Bureau, after due hearing, only on the grounds specified in Article 239 hereof. (245a)

Art. 238. Effect of a Petition for Cancellation of Registration. A petition for cancellation of union registration shall not suspend the proceedings for certification election nor shall it prevent the filing of a petition for certification election. In case of cancellation, nothing herein shall restrict the right of the union to seek just and equitable remedies in the appropriate courts. (246)

Art. 239. Grounds for Cancellation of Union Registration. ~~The following may constitute grounds for cancellation of union registration:~~ SUBJECT TO DUE PROCESS, THE REGISTRATION OF A UNION MAY BE CANCELLED SOLELY FOR ANY OF THE FOLLOWING GROUNDS:

- (a) Misrepresentation, false statement or fraud in connection with the adoption or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification;
- (b) Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, and the list of voters;
- (c) Voluntary dissolution by the members. (247a)

Art. 240. Voluntary Cancellation of Registration. The registration of a legitimate labor organization may be cancelled by the organization itself: *Provided*, That at least two-thirds of its general membership votes, in a meeting duly called for that purpose to dissolve the organization: *Provided, further*, That an application to cancel registration is thereafter submitted by the board of the organization, attested to by the president thereof. (248)

Art. 241. Equity of the Incumbent. All existing federations and national unions which meet the qualifications of a legitimate labor organization and none of the grounds for cancellation shall continue to maintain their existing affiliates regardless of the nature of the industry and the location of the affiliates. (249)

ART. 242. WHEN MULTI-EMPLOYER BARGAINING AVAILABLE. LEGITIMATE LABOR UNIONS AND EMPLOYERS MAY AGREE IN WRITING TO COME TOGETHER FOR THE PURPOSE OF COLLECTIVE BARGAINING, PROVIDED:

- (a) ONLY LEGITIMATE LABOR UNIONS WHO ARE INCUMBENT EXCLUSIVE BARGAINING AGENTS MAY PARTICIPATE AND NEGOTIATE IN MULTI-EMPLOYER BARGAINING;
- (b) ONLY EMPLOYERS WITH COUNTERPART LEGITIMATE LABOR UNIONS WHO ARE INCUMBENT BARGAINING AGENTS MAY PARTICIPATE AND NEGOTIATE IN MULTI-EMPLOYER BARGAINING;
AND

- (c) ONLY THOSE LEGITIMATE LABOR UNIONS WHO PERTAIN TO EMPLOYER UNITS WHO CONSENT TO MULTI-EMPLOYER BARGAINING MAY PARTICIPATE IN MULTI-EMPLOYER BARGAINING. (new)

ART. 243. PROCEDURE IN MULTI-EMPLOYER BARGAINING. MULTI-EMPLOYER BARGAINING MAY BE INITIATED BY THE LABOR UNIONS OR BY THE EMPLOYERS.

- (a) LEGITIMATE LABOR UNIONS WHO DESIRE TO NEGOTIATE WITH THEIR EMPLOYERS COLLECTIVELY SHALL EXECUTE A WRITTEN AGREEMENT AMONG THEMSELVES, WHICH SHALL CONTAIN THE FOLLOWING:

- (1) THE NAMES OF THE LABOR UNIONS WHO DESIRE TO AVAIL OF MULTI-EMPLOYER BARGAINING;
- (2) EACH LABOR UNION IN THE EMPLOYER UNIT;
- (3) THE FACT THAT EACH OF THE LABOR UNIONS ARE THE INCUMBENT EXCLUSIVE BARGAINING AGENTS FOR THEIR RESPECTIVE EMPLOYER UNITS;
- (4) THE DURATION OF THE COLLECTIVE BARGAINING AGREEMENTS, IF ANY, ENTERED INTO BY EACH LABOR UNION WITH THEIR RESPECTIVE EMPLOYERS.

LEGITIMATE LABOR UNIONS WHO ARE MEMBERS OF THE SAME REGISTERED FEDERATION, NATIONAL, OR INDUSTRY UNION ARE EXEMPT FROM EXECUTION OF THIS WRITTEN AGREEMENT.

- (b) THE LEGITIMATE LABOR UNIONS WHO DESIRE TO BARGAIN WITH MULTI-EMPLOYERS SHALL SEND A WRITTEN NOTICE TO THIS EFFECT TO EACH EMPLOYER CONCERNED. THE WRITTEN AGREEMENT STATED IN THE PRECEDING PARAGRAPH, OR THE CERTIFICATES OF REGISTRATION OF THE FEDERATION, NATIONAL, OR INDUSTRY UNION, SHALL ACCOMPANY SAID NOTICE.

EMPLOYERS WHO AGREE TO GROUP THEMSELVES OR USE THEIR EXISTING ASSOCIATIONS TO ENGAGE IN MULTI-EMPLOYER BARGAINING SHALL SEND A WRITTEN NOTICE TO EACH OF THEIR

COUNTERPART LEGITIMATE LABOR UNIONS INDICATING THEIR DESIRE TO ENGAGE IN MULTI-EMPLOYER BARGAINING. SAID NOTICE SHALL INDICATE THE FOLLOWING:

- (1) THE NAMES OF THE EMPLOYERS WHO DESIRE TO AVAIL OF MULTI-EMPLOYER BARGAINING;
 - (2) THEIR CORRESPONDING LEGITIMATE LABOR ORGANIZATIONS;
 - (3) THE FACT THAT EACH CORRESPONDING LEGITIMATE UNION IS AN INCUMBENT EXCLUSIVE BARGAINING AGENT;
 - (4) THE DURATION OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT, IF ANY, ENTERED INTO BY EACH EMPLOYER WITH THE COUNTERPART LEGITIMATE LABOR UNION.
- (c) EACH EMPLOYER OR CONCERNED LABOR UNION SHALL EXPRESS ITS WILLINGNESS OR REFUSAL TO PARTICIPATE IN MULTI-EMPLOYER BARGAINING IN WRITING, ADDRESSED TO ITS CORRESPONDING EXCLUSIVE BARGAINING AGENT OR EMPLOYER. NEGOTIATIONS MAY COMMENCE ONLY WITH REGARD TO RESPECTIVE EMPLOYERS AND LABOR UNIONS WHO CONSENT TO PARTICIPATE IN MULTI-EMPLOYER BARGAINING;
- (d) DURING THE COURSE OF NEGOTIATIONS, CONSENTING EMPLOYERS AND THE CORRESPONDING LEGITIMATE LABOR UNIONS SHALL DISCUSS AND AGREE ON THE FOLLOWING:
- (1) THE MANNER BY WHICH NEGOTIATIONS SHALL PROCEED;
 - (2) THE SCOPE AND COVERAGE OF THE NEGOTIATIONS AND THE AGREEMENT; AND
 - (3) WHERE APPROPRIATE, THE EFFECT OF THE NEGOTIATIONS ON CURRENT AGREEMENTS OR CONDITIONS OF EMPLOYMENT AMONG THE PARTIES. (new)

ART. 244. POSTING AND REGISTRATION OF COLLECTIVE BARGAINING AGREEMENT. TWO (2) SIGNED COPIES OF COLLECTIVE BARGAINING AGREEMENT REACHED THROUGH MULTI-EMPLOYER BARGAINING SHALL BE POSTED FOR AT LEAST FIVE (5) DAYS IN TWO (2) CONSPICUOUS

AREAS IN EACH WORKPLACE OF THE EMPLOYER UNITS CONCERNED. THIS COLLECTIVE BARGAINING AGREEMENT SHALL AFFECT ONLY THOSE EMPLOYEES IN THE BARGAINING UNITS WHO HAVE RATIFIED IT.

THE SAME COLLECTIVE BARGAINING AGREEMENT SHALL BE REGISTERED WITH THE DEPARTMENT IN ACCORDANCE WITH APPLICABLE LAWS AND RULES. (new)

Chapter II

RIGHTS AND CONDITIONS OF MEMBERSHIP

Art. 245. Rights and Conditions of Membership in a Labor Organization. The following are the rights and conditions of membership in a labor organization:

- (a) No arbitrary or excessive initiation fees shall be required of the members of a legitimate labor organization nor shall arbitrary, excessive or oppressive fine and forfeiture be imposed;
- (b) The members shall be entitled to full and detailed reports from their officers and representatives of all financial transactions as provided for in the constitution and by-laws of the organization;
- (c) The members shall directly elect their officers in the local union, as well as their national officers in the national union or federation to which they or their local union is affiliated, by secret ballot at intervals of five (5) years. No qualification requirement for candidacy to any position shall be imposed other than membership in good standing in subject labor organization. The secretary or any other responsible union officer shall furnish the ~~Secretary of Labor and Employment~~ SOLE with a list of the newly-elected officers, together with the appointive officers or agents who are entrusted with the handling of funds within thirty (30) calendar days after the election of officers or from the occurrence of any change in the list of officers of the labor organization;
- (d) The members shall determine by secret ballot, after due deliberation, any question of major policy affecting the entire membership of the organization, unless the nature of the organization or force majeure renders such secret ballot impractical,

in which case, the board of directors of the organization may make the decision in behalf of the general membership;

- (e) No labor organization shall knowingly admit as members or continue in membership ~~any individualS~~ who belongs to a subversive organization or who is ARE engaged directly or indirectly in any subversive activity;
- (f) No person who has been convicted of a crime involving moral turpitude, INCLUDING SEXUAL HARASSMENT OR OTHER SEX-RELATED OFFENSES, shall be eligible for election as a union officer or for appointment to any position in the union;
- (g) No officer, agent or member of a labor organization shall collect any fees, dues, or other contributions in its behalf or make any disbursement of its money or funds unless ~~he is~~ THEY ARE duly authorized pursuant to its constitution and by-laws;
- (h) Every payment of fees, dues or other contributions by a member shall be evidenced by a receipt signed by the officer or agent making the collection and entered into the record of the organization to be kept and maintained for the purpose;
- (i) The funds of the organization shall not be applied for any purpose or object other than those expressly provided by its constitution and by-laws or those expressly authorized by written resolution adopted by the majority of the members at a general meeting duly called for the purpose;
- (j) Every income or revenue of the organization shall be evidenced by a record showing its source, and every expenditure of its funds shall be evidenced by a receipt from the person to whom the payment is made, which shall state the date, place and purpose of such payment. Such record or receipt shall form part of the financial records of the organization.

Any action involving the funds of the organization shall prescribe after three (3) years from the date of submission of the annual financial report to the ~~Department of Labor and Employment~~ DOLE or from the date the same should have been submitted as required by law, whichever comes earlier: *Provided*, That this provision shall apply only to a legitimate labor organization which has submitted the financial report requirements under this Code: *Provided, further*, That failure of any labor organization to comply with the periodic financial reports required by law and such rules and regulations promulgated thereunder six (6) months

after the effectivity of this Act Code shall automatically result in the cancellation of union registration of such labor organization;

- (k) The officers of any labor organization shall not be paid any compensation other than the salaries and expenses due to their positions as specifically provided for in its constitution and by-laws, or in a written resolution duly authorized by a majority of all the members at a general membership meeting duly called for the purpose. The minutes of the meeting and the list of participants and ballots cast shall be subject to inspection by the ~~Secretary of Labor and Employment~~ SOLE or ~~his~~ THEIR duly authorized representatives. Any irregularities in the approval of the resolutions shall be a ground for impeachment or expulsion from the organization;
- (l) The treasurerS of any labor organizationS and every officerS thereof who is ARE responsible for the account of such organization or for the collection, management, disbursement, custody or control of the funds, moneys and other properties of the organization, shall render to the organization and to its members a true and correct account of all moneys received and paid by ~~him~~ THEM since ~~he~~ THEY assumed office or since the last day on which ~~he~~ THEY rendered such account, and of all bonds, securities and other properties of the organization entrusted to ~~his~~ THEIR custody or under ~~his~~ THEIR control. The rendering of such account shall be made:
- (1) At least once a year within thirty (30) days after the close of its fiscal year;
 - (2) At such other times as may be required by a resolution of the majority of the members of the organization; and
 - (3) Upon vacating ~~his~~ THEIR office.
- The account shall be duly audited and verified by affidavit and a copy thereof shall be furnished the ~~Secretary of Labor~~ SOLE.
- (m) The books of accounts and other records of the financial activities of any labor organization shall be open to inspection by any officer or member thereof during office hours;
- (n) No special assessment or other extraordinary fees may be levied upon the members of a labor organization unless authorized by a written resolution of a majority of all the members in a general membership meeting duly called for the purpose. The secretary of the organization shall record the minutes of the meeting including the list of all members present, the votes cast, the purpose of the special

assessment or fees and the recipient of such assessment or fees. The record shall be attested to by the president.

- (o) Other than for mandatory activities under the Code, no special assessments, from any amount due to an employee without an individual written authorization duly signed by the employee. The authorization should specifically state the amount, purpose and beneficiary of the deduction; and
- (p) It shall be the duty of any labor organization and its officers to inform its members on the provisions of its constitution and by-laws, collective bargaining agreement, the prevailing labor relations system and all their rights and obligations under existing labor laws AND LABOR-RELATED LAWS, INCLUDING GENDER-RELATED LAWS.

For this purpose, registered labor organizations may assess reasonable dues to finance labor relations seminars and other labor education activities.

Any violation of the above rights and conditions of membership shall be a ground for ~~cancellation of union registration or~~ expulsion of officers from office, ~~whichever is appropriate~~. At least thirty percent (30%) of the members of a union or any member or members specially concerned may report such violation to the Bureau. The Bureau shall have the power to hear and decide any reported violation to mete the appropriate penalty.

Criminal and civil liabilities arising from violations of above rights and conditions of membership shall continue to be under the jurisdiction of ordinary courts. (250a)

Chapter III

RIGHTS OF LEGITIMATE LABOR ORGANIZATIONS

Art. 246. Rights of Legitimate Labor Organizations. A legitimate labor organization shall have the right:

- (a) To act as the representative of its members for the purpose of collective bargaining;
- (b) To be certified as the exclusive representative of all the employees in an appropriate bargaining unit for purposes of collective bargaining;

- (c) To be furnished by the employer, upon written request, with its annual audited financial statements, including the balance sheet and the profit and loss statement, within thirty (30) calendar days from the date of receipt of the request, after the union has been duly recognized by the employer or certified as the sole and exclusive bargaining representative of the employees in the bargaining unit, or within sixty (60) calendar days before the expiration of the existing collective bargaining agreement, or during the collective bargaining negotiation;
- (d) To own property, real or personal, for the use and benefit of the labor organization and its members;
- (e) To sue and be sued in its registered name; and
- (f) To undertake all other activities designed to benefit the organization and its members, including cooperative, housing, welfare and other projects not contrary to law.

Notwithstanding any provision of a general or special law to the contrary, the income and the properties of legitimate labor organizations, including grants, endowments, gifts, donations and contributions they may receive from fraternal and similar organizations, local or foreign, which are actually, directly and exclusively used for their lawful purposes, shall be free from taxes, duties and other assessments. The exemptions provided herein may be withdrawn only by a special law expressly repealing this provision. (251)

Art. 247. Reportorial Requirements. The following are documents required to be submitted to the Bureau by the legitimate labor organization concerned:

- (a) Its constitution and by-laws, or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification of the constitution and by-laws within thirty (30) days from adoption or ratification of the constitution and by-laws or amendments thereto;
- (b) Its list of officers, minutes of the election of officers, and list of voters within thirty (30) days from election;
- (c) Its annual financial report within thirty (30) days after the close of every fiscal year; and
- (d) Its list of members at least once a year or whenever required by the Bureau.

Failure to comply with the above requirements shall not be a ground for cancellation of union registration but shall subject the erring officers or members to suspension, expulsion from membership, or any appropriate penalty. (252)

Title V
COVERAGE

ART. 248. Coverage and Employees' Right to Self-Organization. All persons employed in commercial, industrial and agricultural enterprises and in religious, charitable, medical, or educational institutions, whether operating for profit or not, shall have the right to self-organization and to form, join, or assist labor organizations of their own choosing for purposes of collective bargaining. Ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers may form labor organizations for their mutual aid and protection. (253)

Art. 249. Right of Employees in the Public Service. Employees of government corporations established under the Corporation Code shall have the right to organize and to bargain collectively with their respective employers. All other employees in the civil service shall have the right to form associations for purposes not contrary to law. (254)

Art. 250. 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 the collective bargaining unit 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 operating within the same establishment may join the same federation or national union. (255)

Art. 251. Effect of Inclusion as Members of Employees Outside the Bargaining Unit. The inclusion as union members of employees outside the bargaining unit shall not be a ground for the cancellation of the registration of the union. Said employees are automatically deemed removed from the list of membership of said union. (256)

Art. 252. Non-Abridgment of Right to Self-Organization. It shall be unlawful for any person to restrain, coerce, discriminate against or unduly interfere with employees and workers in their exercise of the right to self-organization. Such right shall include the right to form, join, or assist labor organizations for the purpose of collective bargaining through representatives of their own choosing and to engage in lawful concerted activities for the same purpose for their mutual aid and protection, subject to the provisions of Article 264 283 of this Code. (257a)

Title VI
UNFAIR LABOR PRACTICES

Chapter I
CONCEPT

Art. 253. Concept of Unfair Labor Practice and Procedure for Prosecution Thereof. Unfair labor practices violate the constitutional right of workers and employees to self-organization, are inimical to the legitimate interests of both labor and management, including their right to bargain collectively and otherwise deal with each other in an atmosphere of freedom and mutual respect, disrupt industrial peace and hinder the promotion of healthy and stable labor management relations.

Consequently, unfair labor practices are not only violations of the civil rights of both labor and management but are also criminal offenses against the State which shall be subject to prosecution and punishment as herein provided.

Subject to the exercise by the President or by the ~~Secretary of Labor and Employment~~ SOLE of the powers vested in them by Articles 263 282 and 264 283 of this Code, the civil aspects of all cases involving unfair labor practices, which may include claims for actual, moral, exemplary and other forms of damages, attorney's fees and other affirmative relief, shall be under the jurisdiction of the ~~Labor Arbiters~~ JUDGES TO THE CLR. The ~~Labor Arbiters~~ JUDGES TO THE CLR shall give utmost priority to the hearing and resolution of all cases involving unfair labor practices. They shall resolve such cases within thirty (30) calendar days from the time they are submitted for decision.

Recovery of civil liability in the administrative proceedings shall bar recovery under the Civil Code.

No criminal prosecution under this Title may be instituted without a final judgment finding that an unfair labor practice was committed, having been first obtained in the preceding paragraph. During the pendency of such administrative proceeding, the running of the period of prescription of the criminal offense herein penalized shall be considered interrupted: *Provided, however,* That the final judgment in the administrative proceedings shall not be binding in the criminal case nor be considered as evidence of guilt but merely as proof of compliance of the requirements therein set forth. (258a)

Chapter II UNFAIR LABOR PRACTICES OF EMPLOYERS

Art. 254. Unfair Labor Practices of Employers. It shall be unlawful for an employerS to commit any of the following unfair labor practices:

- (a) To interfere with, restrain or coerce employees in the exercise of their right to self-organization;
- (b) To require as a condition of employment that a personS or an employeeS shall not join a labor organization or shall withdraw from one to which ~~he belongs~~ THEY BELONG;
- (c) To contract out services or functions being performed by union members when such will interfere with, restrain or coerce employees in the exercise of their right to self-organization;
- (d) To initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization, including the giving of financial or other support to it or its organizers or supporters;
- (e) To discriminate in regard to wages, hours of work and other terms and conditions of employment in order to encourage or discourage membership in any labor organization. Nothing in this Code or in any other law shall stop the parties from requiring membership in a recognized collective bargaining agent as a condition

for employment, except those employees who are already members of another union at the time of the signing of the collective bargaining agreement. Employees of an appropriate bargaining unit who are not members of the recognized collective bargaining agent may be assessed a reasonable fee equivalent to the dues and other fees paid by members of the recognized collective bargaining agent, if such non-union members accept the benefits under the collective bargaining agreement: *Provided*, That the individual authorization required under Article 242 240, paragraph (o) of this Code shall not apply to the non-members of the recognized collective bargaining agent;

- (f) To dismiss, discharge or otherwise prejudice or discriminate against an employeeS for having given or being about to give testimony under this Code;
- (g) To violate the duty, OR REFUSE, to bargain collectively as ~~prescribed by this Code~~ WITH THE EMPLOYEES;
- (h) To pay negotiation or attorney's fees to the union or its officers or agents as part of the settlement of any issue in collective bargaining or any other dispute; or
- (i) To violate a collective bargaining agreement. The provisions of the preceding paragraph notwithstanding, only the officers and agents of corporations, associations or partnerships who have actually participated in, authorized or ratified unfair labor practices shall be held criminally liable. (259a)

Chapter III

UNFAIR LABOR PRACTICES OF LABOR ORGANIZATIONS

Art. 255. Unfair Labor Practices of Labor Organizations. It shall be unfair labor practice for a labor organization, its officers, agents or representatives:

- (a) To restrain or coerce employees in the exercise of their right to self-organization. However, a labor organization shall have the right to prescribe its own rules with respect to the acquisition or retention of membership;
- (b) To cause or attempt to cause an employerS to discriminate against an employeeS, including discrimination against an employeeS with respect to whom membership in such organization has been denied or to terminate an employeeS on any ground other than the usual terms and conditions under which membership or continuation of membership is made available to other members;

- (c) To violate the duty, or refuse to bargain collectively with ~~the~~ employerS, provided it is the representative of the employees;
- (d) To cause or attempt to cause an employerS to pay or deliver or agree to pay or deliver any money or other things of value, in the nature of an exaction, for services which are not performed or not to be performed, including the demand for fee for union negotiations;
- (e) To ask for or accept negotiation or attorney's fees from employers as part of the settlement of any issue in collective bargaining or any other dispute; or
- (f) To violate a collective bargaining agreement.

The provisions of the preceding paragraph notwithstanding, only the officers, members of governing boards, representatives or agents or members of labor associations or organizations who have actually participated in, authorized or ratified unfair labor practices shall be held criminally liable. (260a)

Title VII

COLLECTIVE BARGAINING AND ADMINISTRATION OF AGREEMENTS

Art. 256. Procedure in Collective Bargaining. The following procedures shall be observed in collective bargaining IN ALL PUBLIC AND PRIVATE ENTITIES:

- (a) When a party desires to negotiate an agreement, it shall serve a written notice upon the other party with a statement of its proposals. The other party shall make a reply thereto not later than ten (10) calendar days from receipt of such notice;
- (b) Should differences arise on the basis of such notice and reply, either party may request for a conference which shall begin not later than ten (10) calendar days from the date of request.
- (c) If the dispute is not settled, the Board shall intervene upon request of either or both parties or at its own initiative and immediately call the parties to conciliation meetings. The Board shall have the power to issue subpoenas requiring the attendance of the parties to such meetings. It shall be the duty of the parties to participate fully and promptly in the conciliation meetings the Board may call;
- (d) During the conciliation proceedings in the Board, the parties are prohibited from doing any act which may disrupt or impede the early settlement of the disputes; and

- (e) The Board shall exert all efforts to settle disputes amicably and encourage the parties to submit their case to a voluntary arbitrator. (261a)

Art. 257. Duty to Bargain Collectively in the Absence of Collective Bargaining Agreements. In the absence of an agreement or other voluntary arrangement providing for a more expeditious manner of collective bargaining, it shall be the duty of employerS and the representatives of the employees to bargain collectively in accordance with the provisions of this Code. (262a)

Art. 258. Meaning of 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. (263)

Art. 259. 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 nor 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. (264a)

Art. 260. 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 five (5) 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~~ DOLE outside of the sixty-day period immediately before the date of expiry of such five-year term of the Collective Bargaining Agreement. All other provisions of the Collective Bargaining Agreement shall be renegotiated not later than three (3) years after its execution. Any

agreement on such other provisions of the Collective Bargaining Agreement entered into within six (6) months from the date of expiry of the term of such other provisions as fixed in such Collective Bargaining Agreement, shall retroact to the day immediately following such date. If any such agreement is entered into beyond six (6) months, the parties shall agree on the duration of retroactivity thereof. In case of a deadlock in the renegotiation of the Collective Bargaining Agreement, the parties may exercise their rights under this Code. (265)

Art. 261. Injunction Prohibited. No temporary or permanent injunction or restraining order in any case involving or growing out of labor disputes shall be issued by any court or other entity, except as otherwise provided in Articles 218 210 and 264 283 of this Code. (266a)

Art. 262. Exclusive Bargaining Representation and Workers' Participation in Policy and Decision-Making. 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 shall have the right at any time to present grievances to their employerS.

Any provision of law to the contrary notwithstanding, workers shall have the right, subject to such rules and regulations as the ~~Secretary of Labor and Employment~~ SOLE may promulgate, to participate in policy and decision-making processes of the establishment where they are employed insofar as said processes will directly affect their rights, benefits and welfare. For this purpose, workers and employers may form labor-management councils: *Provided*, That the representatives of the workers in such labor-management councils shall be elected by ~~at least the majority of all employees in said establishment~~ THE APPROPRIATE EXCLUSIVE BARGAINING REPRESENTATIVE; *PROVIDED, FURTHER*, THAT AT LEAST FIFTY PERCENT (50%) OF THE ELECTED REPRESENTATIVES OF EACH OF THE WORKERS AND EMPLOYERS ARE WOMEN.

WHERE THERE ARE BARGAINING UNITS OF RANK-AND-FILE AND SUPERVISORY EMPLOYEES IN THE SAME ESTABLISHMENT, THE

EMPLOYEES SHALL BE ENTITLED TO BE REPRESENTED IN TWO (2) SEPARATE LABOR-MANAGEMENT COUNCILS IN THE ESTABLISHMENT. WHERE NO LEGITIMATE LABOR ORGANIZATION EXIST, THE WORKERS REPRESENTATIVE SHALL BE ELECTED DIRECTLY BY THE EMPLOYEES AT LARGE; *PROVIDED*, THAT THERE SHALL BE TWO (2) SEPARATE LABOR-MANAGEMENT COUNCILS, ONE WITH RANK-AND-FILE EMPLOYEES REPRESENTATIVES, AND ANOTHER WITH SUPERVISORY EMPLOYEES REPRESENTATIVES; *PROVIDED, FINALLY*, THAT AT LEAST FIFTY PERCENT (50%) OF THE REPRESENTATIVES OF EACH OF THE WORKERS AND EMPLOYERS REPRESENTATION ARE WOMEN. (267a)

Art. 263. Representation Issue in Organized Establishments. In organized establishments, when a verified petition questioning the majority status of the incumbent bargaining agentS is filed by any legitimate labor organization including a national union or federation which has already issued a charter certificate to its local chapter participating in the certification election or a local chapter which has been issued a charter certificate by the national union or federation before the ~~Department of Labor and Employment~~ DOLE within the sixty (60)-day period before the expiration of the collective bargaining agreement, the MEDIATOR-ARBITER (Med-Arbiter) shall automatically order an election by secret ballot when the verified petition is supported by the written consent of at least twenty-five percent (25%) of all the employees in the bargaining unit to ascertain the will of the employees in the appropriate bargaining unit. To have a valid election, at least a majority of all eligible voters in the unit must have cast their votes. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining agent of all the workers in the unit. When an election which provides for three or more choices results in no choice receiving a majority of the valid votes cast, a run-off election shall be conducted between the labor unions receiving the two highest number of votes: *Provided*, That the total number of votes for all contending unions is at least fifty percent (50%) of the number of votes cast. In cases where the petition was filed by a national union or federation, it shall not be required to disclose the names of the local chapter's officers and members.

At the expiration of the freedom period, ~~the~~ employerS shall continue to recognize the majority status of ~~the~~ incumbent bargaining agentS where no petition for certification election is filed. (268a)

Art. 264. Petitions in Unorganized Establishments. In any establishment where there is no certified bargaining agent, a certification election shall automatically be conducted by the Med-Arbitrator UPON THE TRANSMITTAL OF THE RECORDS FROM THE REGIONAL DIRECTOR. (269a)

Art. 265. When an Employer May File Petition. When requested to bargain collectively, ~~an~~ EMPLOYERS may petition the Bureau for an election. If there is no existing certified collective bargaining agreement in the unit, the Bureau shall, after hearing, order a certification election. All certification cases shall be decided within twenty (20) working days. The Bureau shall conduct a certification election within twenty (20) days in accordance with the rules and regulations prescribed by the ~~Secretary of Labor and Employment~~ SOLE. (270a)

Art. 266. Employer as Bystander. In all cases, whether the petition for certification election is filed by ~~an~~ employerS or a legitimate labor organizationS, ~~the~~ employerS shall not be considered a party thereto with a concomitant right to oppose a petition for certification election. ~~The~~ employerS' participation in such proceedings shall be limited to: (1) being notified or informed of petitions of such nature; and (2) submitting the list of employees during the pre-election conference should the Med-Arbitrator act favorably on the petition. (271a)

ART. 267. RECLASSIFICATION OF POSITIONS, TRANSFERS, ETC. RECLASSIFICATION, DEMOTION, PROMOTION AND TRANSFER OF POSITIONS SHALL NOT BE UNDERTAKEN DURING THE SIXTY (60)-DAY FREEDOM PERIOD OR THROUGHOUT THE CONDUCT OF CERTIFICATION, CONSENT, RUN-OFF ELECTION, OR RERUN. (new)

Art. 268. Appeal from Certification Election Orders. Any party to an election may appeal the order or results of the election as determined by the Med-Arbitrator directly to the ~~Secretary of Labor and Employment~~ SOLE on the ground that the rules and

regulations or parts thereof established by the ~~Secretary of Labor and Employment~~ SOLE for the conduct of the election have been violated. WHERE APPEAL IS AVAILABLE, A PARTY AGGRIEVED BY THE DECISION OF THE MED-ARBITER HAS TEN (10) DAYS FROM RECEIPT OF THE ADVERSE ORDER WITHIN WHICH TO APPEAL TO THE SOLE. Such appeal shall be decided within fifteen (15) calendar days. (272a)

ART. 269. WHERE TO FILE. ANY LEGITIMATE LABOR ORGANIZATION MAY FILE A REQUEST FOR SOLE AND EXCLUSIVE BARGAINING AGENT/REPRESENTATIVE (SEBA) CERTIFICATION IN THE REGIONAL OFFICE WHICH ISSUED ITS CERTIFICATE OF REGISTRATION OR CERTIFICATE OF CREATION OF CHARTERED LOCAL. (new)

ART. 270. REQUIREMENTS FOR REQUEST OF SEBA CERTIFICATION. THE REQUEST FOR CERTIFICATION SHALL INDICATE:

- (a) THE NAME AND ADDRESS OF THE REQUESTING LEGITIMATE LABOR ORGANIZATION;
- (b) THE NAME AND ADDRESS OF THE COMPANY WHERE IT OPERATES;
- (c) THE BARGAINING UNIT SOUGHT TO BE REPRESENTED;
- (d) THE APPROXIMATE NUMBER OF EMPLOYEES IN THE BARGAINING UNIT; AND
- (f) THE STATEMENT OF THE EXISTENCE OR NON-EXISTENCE OF OTHER LABOR ORGANIZATIONS OR COLLECTIVE BARGAINING AGREEMENT.

THE CERTIFICATE OF REGISTRATION AS DULY CERTIFIED BY THE PRESIDENT OF THE REQUESTING UNION OR CERTIFICATE OF CREATION OF CHARTERED LOCAL AS DULY CERTIFIED BY THE PRESIDENT OF THE FEDERATION OF THE LOCAL SHALL BE ATTACHED TO THE REQUEST. (new)

ART. 271. ACTION ON THE REQUEST. WITHIN ONE (1) DAY FROM THE SUBMISSION OF THE REQUEST, THE REGIONAL DIRECTOR SHALL:

- (a) DETERMINE WHETHER THE REQUEST IS COMPLIANT WITH THE PRECEDING ARTICLE AND WHETHER THE BARGAINING UNIT SOUGHT TO BE REPRESENTED IS ORGANIZED OR NOT; AND
- (b) REQUEST A COPY OF THE PAYROLL FOR PURPOSES OF SEBA CERTIFICATION PURSUANT TO THE NEXT PRECEDING ARTICLE.

IF THE REGIONAL DIRECTOR FINDS THE SUBMISSION DEFICIENT, THE REQUESTING UNION OR LOCAL SHALL BE ADVISED TO COMPLY WITHIN TEN (10) DAYS FROM NOTICE. FAILURE TO COMPLY WITHIN THE PRESCRIBED PERIOD SHALL BE DEEMED AS A WITHDRAWAL OF THE REQUEST FOR SEBA CERTIFICATION. (new)

ART. 272. REQUEST FOR CERTIFICATION IN UNORGANIZED ESTABLISHMENT WITH ONLY ONE LEGITIMATE LABOR ORGANIZATION; VALIDATION PROCEEDINGS. IF THE REGIONAL DIRECTOR FINDS THE ESTABLISHMENT UNORGANIZED WITH ONLY ONE LEGITIMATE LABOR ORGANIZATION, THEY SHALL CALL A CONFERENCE WITHIN FIVE (5) WORK DAYS FOR THE SUBMISSION OF THE FOLLOWING:

- (a) THE NAMES OF EMPLOYEES IN THE COVERED BARGAINING UNIT WHO SIGNIFY THEIR SUPPORT FOR THE CERTIFICATION, PROVIDED THAT SAID EMPLOYEES COMPRISE AT LEAST MAJORITY OF THE NUMBER OF EMPLOYEES IN THE COVERED BARGAINING UNIT; AND
- (b) CERTIFICATION UNDER OATH BY THE PRESIDENT OF THE REQUESTING UNION OR LOCAL THAT ALL DOCUMENTS SUBMITTED ARE TRUE AND CORRECT BASED ON THEIR PERSONAL KNOWLEDGE.

THE SUBMISSION SHALL BE PRESUMED TO BE TRUE AND CORRECT UNLESS CONTESTED UNDER OATH BY ANY MEMBER OF THE BARGAINING UNIT DURING THE VALIDATION CONFERENCE. FOR THIS

PURPOSE, THE EMPLOYER OR ANY REPRESENTATIVE OF THE EMPLOYER SHALL NOT BE DEEMED A PARTY-IN-INTEREST BUT ONLY AS A BY-STANDER TO THE PROCESS OF CERTIFICATION.

IF THE REQUESTING UNION OR LOCAL FAILS TO COMPLETE THE REQUIREMENTS FOR SEBA CERTIFICATION DURING THE CONFERENCE, THE REQUEST FOR SEBA CERTIFICATION SHALL BE REFERRED TO THE APPROPRIATE MED-ARBITER FOR THE CONDUCT OF CERTIFICATION ELECTIONS. (new)

ART. 273. ACTION ON THE SUBMISSION. IF THE REGIONAL DIRECTOR FINDS THE REQUIREMENTS COMPLETE, THEY SHALL ISSUE DURING THE CONFERENCE A CERTIFICATION AS SOLE AND EXCLUSIVE BARGAINING AGENT ENJOYING THE RIGHTS AND PRIVILEGES OF AN EXCLUSIVE BARGAINING AGENT OF ALL THE EMPLOYEES IN THE COVERED BARGAINING UNIT.

THE REGIONAL DIRECTOR SHALL CAUSE THE POSTING OF THE SEBA CERTIFICATION FOR FIFTEEN (15) DAYS IN AT LEAST TWO (2) CONSPICUOUS PLACES IN THE ESTABLISHMENT OR COVERED BARGAINING UNIT. (new)

ART. 274. EFFECT OF CERTIFICATION. UPON THE ISSUANCE OF THE CERTIFICATION AS SOLE AND EXCLUSIVE BARGAINING AGENT, THE CERTIFIED UNION OR LOCAL SHALL ENJOY ALL THE RIGHTS AND PRIVILEGES OF AN EXCLUSIVE BARGAINING AGENT OF ALL THE EMPLOYEES IN THE COVERED BARGAINING UNIT.

THE CERTIFICATION SHALL BAR THE FILING OF A PETITION FOR CERTIFICATION ELECTION BY ANY LABOR ORGANIZATION FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ITS ISSUANCE. UPON EXPIRATION OF THIS ONE-YEAR PERIOD, ANY LEGITIMATE LABOR ORGANIZATION MAY FILE A PETITION FOR CERTIFICATION ELECTION IN THE SAME BARGAINING UNIT REPRESENTED BY THE CERTIFIED LABOR

ORGANIZATION, UNLESS A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE EMPLOYER AND THE CERTIFIED LABOR ORGANIZATION WAS EXECUTED AND VALIDLY REGISTERED WITH THE REGIONAL OFFICE. (new)

ART. 275. REQUEST FOR CERTIFICATION IN AN UNORGANIZED ESTABLISHMENT WITH MORE THAN ONE (1) LEGITIMATE LABOR ORGANIZATION. IF THE REGIONAL DIRECTOR FINDS THE ESTABLISHMENT UNORGANIZED WITH MORE THAN ONE LEGITIMATE LABOR ORGANIZATION, THEY SHALL REFER THE SAME TO THE APPROPRIATE MED-ARBITER FOR THE CONDUCT OF CERTIFICATION ELECTION.

THE CERTIFICATION ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH ARTICLE 264. (new)

ART. 276. REQUEST FOR CERTIFICATION IN ORGANIZED ESTABLISHMENT. IF THE REGIONAL DIRECTOR FINDS THE ESTABLISHMENT ORGANIZED, THEY SHALL REFER THE SAME TO THE MEDIATOR-ARBITER FOR THE DETERMINATION OF THE PROPRIETY OF CONDUCTING A CERTIFICATION ELECTION IN ACCORDANCE WITH ARTICLE 263. (new)

Title VIII

A GRIEVANCE MACHINERY AND VOLUNTARY ARBITRATION

ART. 277. Grievance Machinery and Voluntary Arbitration. The parties to a Collective Bargaining Agreement shall include therein provisions that will ensure the mutual observance of its terms and conditions. They shall establish a machinery for the adjustment and resolution of grievances arising from the interpretation or implementation of their Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies.

All grievances submitted to the grievance machinery which are not settled within seven (7) calendar days from the date of its submission shall automatically be referred to voluntary arbitration prescribed in the Collective Bargaining Agreement.

For this purpose, parties to a Collective Bargaining Agreement shall name and designate in advance a Voluntary Arbitrator or panel of Voluntary Arbitrators, or include in the agreement a procedure for the selection of such Voluntary Arbitrator or panel of Voluntary Arbitrators, preferably from the listing of qualified Voluntary Arbitrators duly accredited by the Board. In case the parties fail to select a Voluntary Arbitrator or panel of Voluntary Arbitrators, the Board shall designate the Voluntary Arbitrator or panel of Voluntary Arbitrators, as may be necessary, pursuant to the selection procedure agreed upon in the Collective Bargaining Agreement, which shall act with the same force and effect as if the Arbitrator or panel of Arbitrators have been selected by the parties as described above. (273)

Art. 278. Jurisdiction of Voluntary Arbitrators and Panel of Voluntary Arbitrators. The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies referred to in the immediately preceding article. Accordingly, violations of a Collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the Collective Bargaining Agreement. For purposes of this article, gross violations of Collective Bargaining Agreement shall mean flagrant and/or malicious refusal to comply with the economic provisions of such agreement.

The ~~Commission~~ CLR, its Regional Offices and the Regional Directors of the ~~Department of Labor and Employment~~ DOLE shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the Voluntary Arbitrator or panel of Voluntary Arbitrators and shall immediately dispose and refer the same to the Grievance Machinery or Voluntary Arbitration provided in the Collective Bargaining Agreement. (274a)

Art. 279. Jurisdiction over Other Labor Disputes. The Voluntary Arbitrator or panel of Voluntary Arbitrators, upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practices and bargaining deadlocks. (275)

Art. 280. Procedures. The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have the power to hold hearings, receive evidence and take whatever action is necessary to resolve the issue or issues subject of the dispute, including efforts to effect a voluntary settlement between parties.

All parties to the dispute shall be entitled to attend the arbitration proceedings. The attendance of any third party or the exclusion of any witness from the proceedings shall be determined by the Voluntary Arbitrator or panel of Voluntary Arbitrators. Hearing may be adjourned for cause or upon agreement by the parties.

FAILURE TO APPEAR IN THE VOLUNTARY ARBITRATION DESPITE NOTICE SHALL BE DEEMED A WAIVER OF THE RIGHT TO BE HEARD. THE UNION MAY FILE AN EX PARTE MOTION TO SUBMIT THE ISSUE FOR EARLY RESOLUTION.

Unless the parties agree otherwise, it shall be mandatory for the Voluntary Arbitrator or panel of Voluntary Arbitrators to render an award or decision within twenty (20) calendar days from the date of submission of the dispute to voluntary arbitration.

The award or decision of the Voluntary Arbitrator or panel of Voluntary Arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties. A PARTY AGGRIEVED BY THE RULING MAY FILE A MOTION FOR RECONSIDERATION WITHIN TEN (10) DAYS FROM NOTICE. ONLY AFTER THE RESOLUTION OF THE MOTION FOR RECONSIDERATION MAY THE AGGRIEVED PARTY APPEAL TO THE COURT OF APPEALS BY FILING A PETITION FOR REVIEW UNDER RULE 43 OF THE RULES OF COURT WITHIN FIFTEEN (15) DAYS FROM NOTICE.

Upon motion of any interested party, the Voluntary Arbitrator or panel of Voluntary Arbitrators or the ~~Labor Arbitrator~~ JUDGE OF THE CLR in the region where the movant resides, in case of the absence or incapacity of the Voluntary Arbitrator or panel of Voluntary Arbitrators, for any reason, may issue a writ of execution requiring either the sheriff of the ~~Commission~~ CLR or regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision, order or award. (276a)

Art. 281. Cost of Voluntary Arbitration and Voluntary Arbitrator's Fee. The parties to a Collective Bargaining Agreement shall provide therein a proportionate sharing scheme on the cost of voluntary arbitration including the Voluntary Arbitrator's fee. The fixing of fee of Voluntary Arbitrators, or panel of Voluntary Arbitrators, whether shouldered wholly by the parties or subsidized by the Special Voluntary Arbitration Fund, shall take into account the following factors:

- (a) Nature of the case;
- (b) Time consumed in hearing the case;
- (c) Professional standing of the Voluntary Arbitrator;
- (d) Capacity to pay of the parties; and
- (e) Fees provided for in the Revised Rules of Court. (277)

Title IX

STRIKES AND LOCKOUTS

Chapter I

STRIKES AND LOCKOUTS

Art. 282. 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, consistent with the national interest, 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.

- (c) In cases 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 ~~Ministry~~ DOLE at least THIRTY (30) days before the intended date thereof. In cases of unfair labor practice, the period of notice shall be FIFTEEN (15) days and in the absence of a duly certified or recognized bargaining agent, the notice of strike may be led 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 ~~15~~ FIFTEEN-day cooling-off period shall not apply and the union may take action immediately.
- (d) The notice must be in accordance with such implementing rules and regulations as the ~~Minister of Labor and Employment~~ SOLE may promulgate.
- (e) During the cooling-off period, it shall be the duty of the ~~Ministry~~ DOLE 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 approved by a majority of the total union membership in the bargaining unit concerned, obtained by secret ballot in meetings 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. The ~~Ministry~~ DOLE may, at its own initiative or upon the request of any affected party, supervise the conduct of the secret balloting. In every case, the union or the employer shall furnish the ~~Ministry~~ DOLE the results

of the voting ~~at least seven days~~ ANY TIME before the intended strike or lockout, subject to the cooling-off period herein provided.

- (g) When, in ~~his~~ THEIR opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the ~~Secretary of Labor and Employment~~ SOLE may assume jurisdiction over the dispute and decide it or certify the same to the ~~Commission~~ CLR for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The ~~Secretary of Labor and Employment~~ SOLE or the ~~Commission~~ CLR may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as THEY may issue to enforce the same.

FOR THE GUIDANCE OF THE WORKERS AND EMPLOYERS IN THE FILING OF PETITION FOR ASSUMPTION OF JURISDICTION, THE FOLLOWING INDUSTRIES/SERVICES ARE HEREBY RECOGNIZED AS DEEMED INDISPENSABLE TO THE NATIONAL INTEREST:

- (1) HOSPITAL SECTOR;
- (2) ELECTRIC POWER INDUSTRY;
- (3) WATER SUPPLY SERVICES, EXCLUDING SMALL WATER SUPPLY SERVICES SUCH AS BOTTLING AND REFILLING STATIONS;
- (4) AIR TRAFFIC CONTROL; AND
- (5) SUCH OTHER INDUSTRIES AS MAY BE RECOMMENDED BY THE NATIONAL TRIPARTITE INDUSTRIAL PEACE COUNCIL (NTIPC).

In line with the national concern for and the highest respect accorded to the right of patients to life and health, strikes and lockouts in hospitals, clinics and similar medical institutions shall, to every extent possible, be avoided, and all serious

efforts, not only by labor and management but government as well, be exhausted to substantially minimize, if not prevent, their adverse effects on such life and health, through the exercise, however legitimate, by labor of its right to strike and by management to lockout. In labor disputes adversely affecting the continued operation of such hospitals, clinics or medical institutions, it shall be the duty of the striking union or locking-out employer to provide and maintain an effective skeletal workforce of medical and other health personnel, whose movement and services shall be unhampered and unrestricted, as are necessary to insure the proper and adequate protection of the life and health of its patients, most especially emergency cases, for the duration of the strike or lockout. In such cases, therefore, the ~~Secretary of Labor and Employment~~ SOLE may immediately assume, within twenty-four (24) hours from knowledge of the occurrence of such a strike or lockout, jurisdiction over the same or certify it to the ~~Commission~~ CLR for compulsory arbitration. For this purpose, the contending parties are strictly enjoined to comply with such orders, prohibitions and/or injunctions as are issued by the ~~Secretary of Labor and Employment~~ SOLE. or the ~~Commission~~ CLR, under pain of immediate disciplinary action, including dismissal or loss of employment status or payment by the locking-out employer of backwages, damages and other affirmative relief, even criminal prosecution against either or both of them.

The foregoing notwithstanding, the President of the Philippines shall not be precluded from determining the industries that, in ~~his~~ THEIR opinion, are indispensable to the national interest, and from intervening at any time and assuming jurisdiction over any such labor dispute in order to settle or terminate the same.

- (h) Before or at any stage of the compulsory arbitration process, the parties may opt to submit their dispute to voluntary arbitration.
- (i) The ~~Secretary of Labor and Employment~~ SOLE, the ~~Commission~~ CLR or the voluntary arbitrator or panel of voluntary arbitrators shall decide or resolve the dispute within thirty (30) calendar days from the date of the assumption of jurisdiction or the certification or submission of the dispute, as the case may be.

The decision of the President, the ~~Secretary of Labor and Employment~~ SOLE, the ~~Commission~~ CLR or the voluntary arbitrator shall be final and executory ten (10) calendar days after receipt thereof by the parties. (278a)

Art. 283. Prohibited Activities.

- (a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the ~~Ministry~~BOARD.

No strike or lockout shall be declared after assumption of jurisdiction by the President or the ~~Minister~~ SOLE or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

~~Any~~ WORKERS whose employment ~~has~~ HAVE been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. ~~Any~~ UNION OFFICERS who knowingly participates in an illegal strike and ~~any~~ WORKERS or UNION OFFICERS who knowingly participates in the commission of illegal acts during a strike may be declared to have lost ~~his~~ THEIR employment status: *Provided*, That mere participation of a WORKERS in a ~~lawful~~ strike shall not constitute sufficient ground for termination of ~~his~~ THEIR employment, even if a replacement had been hired by the employer during such strike. IN ALL CASES, THE TERMINATION OF EMPLOYMENT SHALL CONFORM TO SUBSTANTIVE AND PROCEDURAL REQUIREMENTS.

- (b) No person shall obstruct, impede, or interfere with by force, violence, coercion, threats or intimidation, any ~~peaceful~~ picketing OR STRIKE by employees during any labor controversy or in the exercise of the right to self-organization or collective bargaining, or shall aid or abet such obstruction or interference.

- (c) No employer shall use or employ any strike-breaker, nor shall any person be employed as a strike-breaker.
- (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 INTERFERE WITH THE WORKERS' EXERCISE OF THE RIGHT TO PEACEFUL CONCERTED ACTION, INCLUDING THE RIGHT TO STRIKE. No public official or employee, including officers and personnel of the ~~New~~ Armed Forces of the Philippines or the ~~Integrated~~ PHILIPPINE National Police, or armed person, shall bring in, introduce or escort in any manner, ~~any~~ INDIVIDUALS 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 OFFICERS 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 public thoroughfares.~~
- (f) NO PERSON SHALL TRANSPORT PERSONNEL, RAW MATERIALS, OR FINISHED PRODUCTS INTO OR OUT FROM THE STRIKE AREA DURING A STRIKE. (279a)

Art. 284. Improved Offer Balloting. In an effort to settle a strike, the ~~Department of Labor and Employment~~ DOLE shall conduct a referendum by secret balloting on the improved offer of the employer on or before the 30th day of the strike. When at least a majority of the union members vote to accept the improved offer the striking workers shall immediately return to work and the employer shall thereupon readmit them upon the signing of the agreement.

In case of a lockout, the ~~Department of Labor and Employment~~ DOLE shall also conduct a referendum by secret balloting on the reduced offer of the union on or before the 30th day of the lockout. When at least a majority of the board of directors or trustees or the partners holding the controlling interest in the case of a partnership vote to accept the reduced offer, the workers shall immediately return to work and the EMPLOYERS shall thereupon readmit them upon the signing of the agreement. (280a)

Art. 285. Requirement for Arrest and Detention. ~~Except on grounds of national security and public peace or in case of commission of a crime,~~ No union members or union organizers SHALL be INVITED FOR QUESTIONING, arrested or detained for union activities without ~~previous consultations~~ CLEARANCE with the ~~Secretary of Labor~~ SOLE. (281a)

Chapter II

ASSISTANCE TO LABOR ORGANIZATIONS

Art. 286. Assistance by the ~~Department of Labor~~ DOLE. The ~~Department of Labor~~ DOLE, at the initiative of the ~~Secretary of Labor~~ SOLE, 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. (282a)

Art. 287. Assistance by the Institute of Labor and Manpower Studies. The Institute of Labor and Manpower Studies shall render technical and other forms of assistance to labor organizations and employer organizations in the field of labor education, especially pertaining to collective bargaining, arbitration, labor standards and ~~the Labor~~ this Code ~~of the Philippines~~ in general. (283)

Chapter III

PENALTIES FOR VIOLATION

Art. 288. Penalties.

- (a) Any person violating any of the provisions of Article ~~264~~ 283 of this Code shall be punished by a fine of not less than one thousand pesos (P1,000.00) nor more

than ten thousand pesos (P10,000.00) and/or imprisonment for not less than three (3) months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the court. Prosecution under this provision shall preclude prosecution for the same act under the Revised Penal Code, and vice versa.

- (b) Upon the recommendation of the ~~Minister of Labor and Employment~~ SOLE and the ~~Minister~~ SECRETARY of National Defense, foreigners who violate the provisions of this Title shall be subject to immediate and summary deportation by the ~~Commission on~~ BUREAU OF Immigration and ~~Deportation~~ and shall be permanently barred from re-entering the country without the special permission of the President of the Philippines. (287a)

Title X SPECIAL PROVISIONS

Art. 289. Study of Labor-Management Relations. The ~~Secretary of Labor~~ SOLE shall have the power and it shall be ~~his~~ THEIR 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. The ~~Secretary of Labor~~ SOLE shall also inquire into the causes of industrial unrest

and take all the necessary steps within ~~his~~ THEIR power as may be prescribed by law to alleviate the same, and shall from time to time recommend the enactment of such remedial legislation as in ~~his~~ THEIR judgment may be desirable for the maintenance and promotion of industrial peace. (288a)

Art. 290. Visitorial Power. The ~~Secretary of Labor and Employment~~ SOLE or ~~his~~ THEIR duly authorized representative is hereby empowered to inquire into financial activities of legitimate labor organizations upon the filing of a complaint under oath and duly supported by the written consent of at least twenty percent (20%) of the total membership of the labor organization concerned and to examine their books of accounts and other records to determine compliance or non-compliance with the law and to prosecute any violations of the law and the union constitution and bylaws: *Provided,* That such inquiry or examination shall not be conducted during the sixty (60) days freedom period nor within the thirty (30) days immediately preceding the date of election of union officials. (289a)

Art. 291. Tripartism, Tripartite Conferences, and Tripartite Industrial Peace Councils.

- (a) 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.
- (b) The ~~Secretary of Labor and Employment~~ SOLE or ~~his~~ THEIR duly authorized representatives may from time to time call a national, regional, or industrial tripartite conference of representatives of government, workers and employers, and other interest groups as the case may be, for the consideration and adoption of voluntary codes of principles designed to promote industrial peace based on social AND GENDER 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~~ SOLE may consult with THE PHILIPPINE COMMISSION ON WOMEN (PCW) AND accredited representatives of workers and employers.
- (c) A National Tripartite Industrial Peace Council (NTIPC) shall be established, headed by the ~~Secretary of Labor and Employment~~ SOLE, with twenty (20)

representatives each from the labor and employers' sectors to be designated by the President at regular intervals. For this purpose, a sectoral nomination, selection, and recall process shall be established by the DOLE in consultation with the sectors observing the 'most representative' organization criteria of ILO Convention No. 144.

Tripartite Industrial Peace Councils (TIPCs) at the regional or industry level shall also be established with representatives from government, workers and employers to serve as a continuing forum for tripartite advisement and consultation in aid of streamlining the role of government, empowering workers' and employers' organizations, enhancing their respective rights, attaining industrial peace, and improving productivity.

The TIPCs shall have the following functions:

- (1) Monitor the full implementation and compliance of concerned sectors with the provisions of all tripartite instruments, including international conventions and declarations, codes of conduct, and social accords;
- (2) Participate in national, regional or industry-specific tripartite conferences which the President or the ~~Secretary of Labor and Employment~~ SOLE may call from time to time;
- (3) Review existing labor, economic and social policies and evaluate local and international developments affecting them;
- (4) Formulate, for submission to the President or to Congress, tripartite views, recommendations and proposals on labor, economic, and social concerns, including the presentation of tripartite positions on relevant bills pending in Congress;
- (5) Advise the ~~Secretary of Labor and Employment~~ SOLE in the formulation or implementation of policies and legislation affecting labor and employment;
- (6) Serve as a communication channel and a mechanism for undertaking joint programs among government, workers, employers and their organizations toward enhancing labor-management relations; and

- (7) Adopt its own program of activities and rules, consistent with development objectives. All TIPC's shall be an integral part of the organizational structure of the NTIPC. The operations of all TIPC's shall be funded from the regular budget of the DOLE. (290a)

Art. 292. 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 the ~~National Assembly~~ CONGRESS as provided for in the ~~New~~ 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. (291)

Art. 293. Miscellaneous Provisions.

- (a) All unions are authorized to collect reasonable membership fees, union dues, assessments and fines and other contributions for labor education and research, mutual death and hospitalization benefits, welfare fund, strike fund and credit and cooperative undertakings.
- (b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just and authorized cause and without prejudice to the requirement of notice under Article ~~283~~ 299 of this Code, the employer shall furnish the workerS whose employment is ARE sought to be terminated a written noticeS containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend ~~himself~~ THEMSELVES with the assistance of ~~his~~ THEIR representative if ~~he~~ THEY so desire in accordance with company rules and regulations promulgated pursuant to guidelines set by the ~~Department of Labor and Employment~~ DOLE. Any decision taken by the employer shall be without prejudice to the right of the workerS to contest the validity or legality of ~~his~~ THEIR dismissal by filing a complaint with the regional branch of the ~~National Labor Relations Commission~~ CLR. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer. The ~~Secretary of the Department of Labor and Employment~~ SOLE may suspend the effects of the termination pending resolution of the dispute in the event of a *prima facie* finding by the appropriate

official of the ~~Department of Labor and Employment~~ DOLE before whom such dispute is pending that the termination may cause a serious labor dispute or is in implementation of a mass lay-off.

- (c) ~~Any e~~EmployeeS, whether employed for a definite period or not, shall, beginning on ~~his~~ THEIR first day of service, be considered as ~~an~~ employeeS for purposes of membership in any labor union.
- (d) No docket fee shall be assessed in labor standards disputes. In all other disputes, docket fees may be assessed against the filing party, provided that in bargaining deadlock, such fees shall be shared equally by the negotiating parties.
- (e) The ~~Minister of Labor and Employment~~ SOLE and the ~~Minister~~ SECRETARY of the Budget shall cause to be created or reclassified in accordance with law such positions as may be necessary to carry out the objectives of this Code and cause the upgrading of the salaries of the personnel involved in the Labor Relations System of the Department. Funds needed for this purpose shall be provided out of the Special Activities Fund appropriated by Batas Pambansa Blg. 80 and from annual appropriations thereafter.
- (f) A special Voluntary Arbitration Fund is hereby established in the Board to subsidize the cost of voluntary arbitration in cases involving the interpretation and implementation of the Collective Bargaining Agreement, including the Arbitrator's fees, and for such other related purposes to promote and develop voluntary arbitration. The Board shall administer the Special Voluntary Arbitration Fund in accordance with the guidelines it may adopt upon the recommendation of the Council, which guidelines shall be subject to the approval of the ~~Secretary of Labor and Employment~~ SOLE. Continuing funds needed for this purpose SHALL BE in ~~the initial yearly amount of Fifteen million pesos (P15,000,000.00)~~ AN AMOUNT WHICH SHALL BE INCREASED DEPENDING ON THE REQUIREMENTS OF THE AGENCY AND shall be provided in the 1989 annual general appropriations acts.

The amount of subsidy in appropriate cases shall be determined by the Board in accordance with established guidelines issued by it upon the recommendation of the Council. The Fund shall also be utilized for the operation of the Council, the training and education of Voluntary Arbitrators, and the promotion and development of a comprehensive Voluntary Arbitration Program.

- (g) The ~~Ministry~~ DOLE shall help promote and gradually develop, with the agreement of labor organizations and employers, labor-management cooperation programs at appropriate levels of the enterprise based on shared responsibility and mutual respect in order to ensure industrial peace and improvement in productivity, working conditions and the quality of working life.
- (h) In establishments where no legitimate labor organization exists, labor-management committees may be formed voluntarily by workers and employers for the purpose of promoting industrial peace. The ~~Department of Labor and Employment~~ DOLE shall endeavor to enlighten and educate the workers and employers on their rights and responsibilities through labor education with emphasis on the policy thrusts of this Code.

To ensure speedy labor justice, the periods provided in this Code within which decisions or resolutions of labor relations cases or matters should be rendered shall be mandatory. For this purpose, a case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading or memorandum required by the rules of the ~~Commission~~ CLR or by the ~~Commission~~ CLR itself, or the ~~Labor Arbitrator~~ JUDGE OF THE CLR, or the Director of the Bureau of Labor Relations or Med-Arbitrator, or the Regional Director. Upon expiration of the corresponding period, a certification stating why a decision or resolution has not been rendered within the said period shall be issued forthwith by the ~~Chairman~~ CHAIR of the ~~Commission~~ CLR, the Executive ~~Labor Arbitrator~~ JUDGE OF THE CLR, or the Director of the Bureau of Labor Relations or Med-Arbitrator, or the Regional Director, as the case may be, and a copy thereof served upon the parties. Despite the expiration of the applicable mandatory period, the aforesaid officials shall, without prejudice to any liability which may have been incurred as a consequence thereof, see to it that the case or matter shall be decided or resolved without any further delay. (292a)

Book Six

POST-EMPLOYMENT

Title I - Termination of Employment

Art. 294. Coverage. The provisions of this Title shall apply to all establishments or undertakings, whether for profit or not. (293)

Art. 295. Security of Tenure. ~~The e~~EmployerS shall not terminate the services of an employee, WHETHER REGULAR OR NON-REGULAR, except for a just cause or when authorized by this Title. ~~An e~~EmployeeS who is ARE unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to ~~his~~ THEIR full backwages, inclusive of allowances, and to ~~his~~ THEIR other benefits or their monetary equivalent computed from the time ~~his~~ THEIR compensation was withheld from ~~him~~ THEM up to the time of ~~his~~ THEIR actual reinstatement. (294a)

Art. 296. Regular and Casual Employment. The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, ~~an~~ employment shall be deemed to be regular where the employeeS ~~has~~ HAVE been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employeeS or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: *Provided*, That ~~any~~ employeeS who ~~has~~ HAVE rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employeeS ~~with respect to the activity in which he is employed and his employment shall continue while such activity exists.~~ (295a)

Art. 297. Probationary Employment. Probationary employment shall not exceed six (6) months from the date the employee started working, ~~unless it is covered by an apprenticeship agreement stipulating a longer period.~~ The services of an employeeS who ~~has~~ HAVE been engaged on a probationary basis may be terminated for a just cause or when ~~he fails~~ THEY FAIL to qualify as a regular employeeS in accordance with reasonable standards made known by the employer to the employeeS at the time

of his THEIR engagement. An eEmployeeS who is ARE allowed to work after the probationary period shall be considered a regular employeeS. (296a)

Art. 298. Termination by Employer. An eEmployerS may terminate an employment for any of the following causes:

- (a) Serious misconduct or willful disobedience by the employeeS of the lawful orders of his THEIR employer or representative in connection with his THEIR work;
- (b) Gross and habitual neglect by the employeeS of his THEIR duties;
- (c) Fraud or willful breach by the employeeS of the trust reposed in him THEM by the employer or duly authorized representative;
- (d) Commission of a crime or offense by the employeeS against the person of his THEIR employer or any immediate member of his THEIR family or his THEIR duly authorized representatives;
- (e) COMMISSION OF SEXUAL VIOLENCE AND/OR OTHER SEXUALLY-RELATED OFFENSES, REGARDLESS OF CONVICTION; AND
- (f) Other causes analogous to the foregoing. (297a)

ART. 299. Closure of Establishment and Reduction of Personnel. The eEmployerS may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the ~~Ministry of Labor and Employment~~ SOLE at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the workerS affected thereby shall be entitled to a separation pay equivalent to at least his THEIR one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year. (298a)

Art. 300. Disease as Ground for Termination. ~~An~~ EmployerS may terminate the services of ~~an~~ employeeS who ~~has been~~ HAVE BEEN found to be suffering from any disease and whose continued employment ~~is~~ ARE prohibited by law or ~~is~~ ARE prejudicial to ~~his~~ THEIR health as well as to the health of ~~his~~ THEIR co-employees: *PROVIDED*, THAT EMPLOYERS SHALL PRESENT A CERTIFICATION ISSUED BY A COMPETENT PUBLIC HEALTH AUTHORITY ATTESTING THAT THE ILLNESS OR DISEASE CANNOT BE CURED WITHIN SIX (6) MONTHS EVEN WITH PROPER MEDICAL TREATMENT: *Provided, FURTHER*, That ~~he is~~ THEY ARE paid separation pay equivalent to at least one (1) month salary or to one-half (1/2) month salary for every year of service, whichever is greater, a fraction of at least six (6) months being considered as one (1) whole year. (299a)

Art. 301. Termination by Employee.

- (a) ~~An~~ EmployeeS may terminate without just cause the employee-employer relationship by serving a written notice on the employerS at least one (1) month in advance. The EmployerS upon whom no such notice was served may hold the employeeS liable for damages.
- (b) ~~An~~ EmployeeS may put an end to the relationship without serving any notice on the employerS for any of the following just causes:
- (1) Serious insult by the employerS or ~~his~~ THEIR representative on the honor and person of the employeeS;
 - (2) Inhuman and unbearable treatment accorded the employeeS by the employerS or ~~his~~ THEIR representative;
 - (3) Commission of a crime or offense by the employerS or ~~his~~ THEIR representative against the personS of the employeeS or any of the immediate members of ~~his~~ THEIR family;
 - (4) COMMISSION OF SEXUAL VIOLENCE AND/OR OTHER SEXUALLY-RELATED OFFENSES, REGARDLESS OF CONVICTION; AND
 - (5) Other causes analogous to any of the foregoing. (300a)

Art. 302. 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~~ employeeS of a military or civic dutyIES shall not terminate employment. In all such cases, ~~the~~ employerS shall reinstate the employeeS to ~~his~~ THEIR former positionS without loss of seniority rights if ~~he~~ ~~indicates~~ ~~his~~ THEY INDICATE THEIR desire to resume ~~his~~ THEIR work not later than one (1) month from the resumption of operations of ~~his~~ THEIR employer or from ~~his~~ THEIR relief from the military or civic dutyIES. (301a)

Title II - Retirement from the Service

Art. 303. Retirement. ~~Any~~ eEmployeeS may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

In case of retirement, ~~the~~ employeeS shall be entitled to receive such retirement benefits as ~~he~~ THEY may have earned under existing laws and any collective bargaining agreement and other agreements: *Provided, however,* That retirement benefits under any collective bargaining and other agreements shall not be less than those provided therein.

In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, ~~an~~ employeeS upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who ~~has~~ HAVE served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

Unless the parties provide for broader inclusions, the term one-half (1/2) month salary shall mean fifteen (15) days plus one-twelfth (1/12) of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves.

~~An~~ Underground mining employeeS upon reaching the age of fifty (50) years or more, but not beyond sixty (60) years which is hereby declared the compulsory retirement age for underground mine workers, who ~~has~~ HAVE served at least five (5) years as

underground mine workerS, may retire and shall be entitled to all the retirement benefits provided for in this Article.

~~Retail, service and agricultural establishments or operations employing not more than ten (10) employees or workers are exempted from the coverage of this provision.~~

Violation of this provision is hereby declared unlawful and subject to the penal provisions under Article 288 312 of this Code.

Nothing in this Article shall deprive any employeeS of benefits to which he THEY may be entitled under existing laws or company policies or practices. (302a)

BOOK SEVEN GENDER EQUALITY PROVISIONS

ART. 304. ANNUAL EVALUATION OF PAY AND BENEFITS STRUCTURE. THERE SHALL BE AN ANNUAL ASSESSMENT OF THE COMPANY'S EXISTING PAY AND BENEFIT STRUCTURES AND JOB CLASSIFICATIONS WITH THE GOAL OF ELIMINATING ANY DISCREPANCIES IN SALARIES AND BENEFITS ATTRIBUTABLE SOLELY TO GENDER BIAS OR DISCRIMINATION. TOWARDS THIS END, GENDER-FAIR CRITERIA OR STANDARDS SHALL BE ESTABLISHED WHICH ALLOW FOR REASONABLE DISCREPANCIES IN PAY AND BENEFITS, SUCH AS DIFFERENCE IN POSITION OR TITLE, JOB DESCRIPTION, JOB RESPONSIBILITY, OR OTHER GENDER-FAIR CRITERIA OR STANDARDS. THE ANNUAL ASSESSMENT SHALL BE UNDERTAKEN IN CONSULTATION WITH THE BARGAINING REPRESENTATIVE OR, IN THE ABSENCE OF A CERTIFIED BARGAINING REPRESENTATIVE, THEIR DESIGNATED REPRESENTATIVE. IN PURSUIT OF THIS OBJECTIVE, THE EMPLOYER SHALL FURNISH THE UNION OR DULY AUTHORIZED EMPLOYEE REPRESENTATIVE A COPY OF THE PAY AND BENEFIT STRUCTURES AND JOB CLASSIFICATIONS. (new)

ART. 305. TAX INCENTIVES OR BONUS SCHEMES. THE DOLE, IN CONSULTATION WITH THE DEPARTMENT OF FINANCE, THE BUREAU OF INTERNAL REVENUE AND THE PCW, SHALL DEVELOP AND PRESCRIBE TAX INCENTIVES OR BONUS SCHEMES FOR UNIONS AND EMPLOYERS, PROVIDED THAT AT LEAST FORTY PERCENT (40%) OF UNION OR COMPANY OFFICERS ARE WOMEN. FOR THIS PURPOSE, UNION OFFICERS ARE THOSE WHO ARE EITHER ELECTED OR APPOINTED, INCLUDING SHOP STEWARDS. FOR COMPANY OFFICERS, OFFICERS ARE THOSE WHO ARE EITHER ELECTED OR APPOINTED AND AT LEAST OCCUPYING A MANAGERIAL POSITION.

A SIMILAR TAX INCENTIVE OR BONUS SCHEME SHALL ALSO BE DEVELOPED AND PRESCRIBED FOR A GENDER-FAIR COMPOSITION OF COMPANY OFFICERS AND EMPLOYEES AND TOTAL UNION MEMBERSHIP.
(new)

ART. 306. CREATION OF A GENDER FOCAL POINT COMMITTEE IN THE WORKPLACE; DEDUCTIBILITY OF TRAINING COSTS. ALL ESTABLISHMENTS, BOTH PUBLIC AND PRIVATE, SHALL DESIGNATE A GENDER FOCAL COMMITTEE WITH THE FOLLOWING TASKS AND FUNCTIONS:

- (1) IN CONSULTATION WITH THE PCW OR ANY PCW-CERTIFIED OR ACCREDITED ORGANIZATIONS, REVIEW POLICIES, RULES, AND RECOMMEND REVISIONS OF SUCH POLICIES AND RULES THAT ARE DISCRIMINATORY OR DISPROPORTIONATELY DISADVANTAGE FEMALE WORKERS;
- (2) MONITOR THE ENFORCEMENT AND IMPLEMENTATION OF GENDER-RESPONSIVE POLICIES, RULES, AND PROGRAMS IN THE WORKPLACE;
- (3) CONDUCT GENDER-RELATED SEMINARS AND TRAININGS AND OTHER EDUCATIONAL ACTIVITIES TO FOSTER A GENDER-FRIENDLY WORKING ENVIRONMENT; AND
- (4) PERFORM SUCH OTHER FUNCTIONS THAT WOULD ENSURE THE PROMOTION OF GENDER EQUALITY IN THE WORKPLACE.

AN ADDITIONAL DEDUCTION FROM THEIR TAXABLE INCOME CONSISTING OF THE VALUE OF GENDER-RELATED ACTIVITY EXPENSES INCURRED SHALL BE GRANTED TO THE ENTERPRISE ORGANIZING THE TRAINING: *PROVIDED*, THAT SUCH EDUCATIONAL ACTIVITY IS DULY RECOGNIZED BY THE PHILIPPINE COMMISSION ON WOMEN. (new)

ART. 307. GENDER SENSITIVITY ORIENTATION. ALL GOVERNMENT OFFICIALS AND EMPLOYEES OF THE DOLE SHALL UNDERGO A GENDER SENSITIVITY ORIENTATION ON ANTI-SEXUAL HARASSMENT, ONCE EVERY THREE (3) YEARS. GENDER SENSITIVITY ORIENTATION CLEARANCE SHALL HENCEFORTH BE A COMPONENT OF OFFICERS' AND EMPLOYEES' PERSONNEL ACTIONS, SUCH AS HIRING, TENURE AND PROMOTION. (new)

ART. 308. GENDER EQUALITY RESEARCH. THE DOLE SHALL UNDERTAKE GENDER RESEARCH, PARTICULARLY ON ALL FORMS OF DIRECT AND INDIRECT DISCRIMINATION, WITH THE AIM OF FORMULATING POLICIES, RULES AND REGULATIONS TO CURB SUCH PRACTICES IN THE WORKPLACE. (new)

ART 309. DUTIES OF EMPLOYERS. EMPLOYERS OR OTHER PERSONS OF AUTHORITY, INFLUENCE OR MORAL ASCENDANCY IN A WORKPLACE SHALL HAVE THE DUTY TO PREVENT, DETER, OR PUNISH THE PERFORMANCE OF ACTS OF GENDER-BASED SEXUAL HARASSMENT IN THE WORKPLACE AS PROVIDED FOR IN SECTION 17 OF REPUBLIC ACT NO. 11313. IN ADDITION, EMPLOYERS SHALL HAVE THE DUTY TO PROVIDE INCENTIVES FOR EMPLOYEES FOR COMPLIANCE WITH THE ACTS UNDER SECTION 18 OF REPUBLIC ACT NO. 11313. (new)

ART. 310. GENDER SENSITIVITY TRAINING OR ORIENTATION IN UNIONS. IT SHALL BE THE DUTY OF UNION OFFICERS TO PREVENT, DETER, OR PUNISH THE PERFORMANCE OF ACTS OF GENDER-BASED SEXUAL HARASSMENT AMONG ITS OFFICERS AND MEMBERS.

TOWARDS THIS END, THE UNION OFFICERS SHALL:

- (a) DISSEMINATE OR POST IN A CONSPICUOUS PLACE A COPY OF THIS BOOK OF THE LABOR CODE TO ALL PERSONS IN THE WORKPLACE, OR UNION OFFICE, AS THE CASE MAY BE;
- (b) PROVIDE MEASURES TO PREVENT GENDER-BASED SEXUAL HARASSMENT IN THE WORKPLACE, SUCH AS THE CONDUCT OF ANTI-SEXUAL HARASSMENT SEMINARS;
- (c) CREATE AN INDEPENDENT INTERNAL MECHANISM OR A COMMITTEE ON DECORUM AND INVESTIGATION TO INVESTIGATE AND ADDRESS COMPLAINTS OF GENDER-BASED SEXUAL HARASSMENT WHICH SHALL:
 - (1) DESIGNATE A WOMAN AS ITS HEAD AND HAVE WOMEN AS NOT LESS THAN HALF OF ITS MEMBERS;
 - (2) BE COMPOSED OF MEMBERS WHO SHOULD BE IMPARTIAL AND NOT CONNECTED OR RELATED TO THE ALLEGED PERPETRATOR;
 - (3) INVESTIGATE AND DECIDE ON THE COMPLAINTS WITHIN TEN (10) DAYS UPON RECEIPT THEREOF;
 - (4) OBSERVE DUE PROCESS;
 - (5) PROTECT THE COMPLAINANT FROM RETALIATION; AND
 - (6) GUARANTEE CONFIDENTIALITY;
- (d) PROVIDE AND DISSEMINATE, IN CONSULTATION WITH ALL UNION MEMBERS IN THE WORKPLACE, A CODE OF CONDUCT OR WORKPLACE POLICY WHICH SHALL:
 - (1) EXPRESSLY REITERATE THE PROHIBITION ON GENDER-BASED SEXUAL HARASSMENT;
 - (2) DESCRIBE THE PROCEDURES OF THE INTERNAL MECHANISM CREATED UNDER THIS PROVISION; AND
 - (3) SET UNION PENALTIES. (new)

ART. 311. DUTIES OF UNIONS, FELLOW EMPLOYEES, AND CO-WORKERS. UNIONS, FELLOW EMPLOYEES, AND CO-WORKERS SHALL HAVE THE DUTY TO REFRAIN, DISCOURAGE, AND REPORT THE

PERFORMANCE OF ACTS OF GENDER-BASED SEXUAL HARASSMENT IN THE WORKPLACE AS PROVIDED FOR IN SECTION 18 OF REPUBLIC ACT NO. 11313. IN ADDITION, THEY SHALL PROVIDE EMOTIONAL OR SOCIAL SUPPORT TO UNION OFFICERS OR MEMBERS, FELLOW EMPLOYEES, AND CO-WORKERS OR PEERS, AS THE CASE MAY BE, WHO ARE VICTIMS OF GENDER-BASED SEXUAL HARASSMENT. (new)

BOOK EIGHT

Transitory and Final Provisions

Title I

Penal Provisions and Liabilities

Art. 312. Penalties. Except as otherwise provided in this Code, or unless the acts complained of hinge on a question of interpretation or implementation of ambiguous provisions of an existing collective bargaining agreement, any violation of the provisions of this Code declared to be PROHIBITED, unlawful or penal in nature shall be punished with a fine of not less than ~~One~~ FIFTY Thousand Pesos (P450,000.00) nor more than ~~Ten~~ FIVE HUNDRED Thousand Pesos (P4500,000.00), or imprisonment of not less than ~~three~~ SIX (6) months nor more than ~~three~~ SIX (6) years, or both such fine and imprisonment at the discretion of the court.

In addition to such penalty, any ~~alien~~ FOREIGN NATIONAL found guilty shall be summarily deported upon completion of service of sentence.

Any provision of law to the contrary notwithstanding, any criminal offense punished in this Code shall be under the ~~concurrent~~ EXCLUSIVE AND ORIGINAL jurisdiction of the ~~Municipal or City Courts and the Courts of First Instance~~ REGIONAL TRIAL COURT. (303a)

Art. 313. Who are liable when committed by other than natural person. If the offense is committed by a corporation, trust, firm, partnership, association or any other entity, the penalty shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership, association or entity. (304)

Title II
Prescription of Offenses and Claims

Art. 314. Offenses. Offenses penalized under this Code and the rules and regulations issued pursuant thereto shall prescribe in ~~three (3)~~ SIX (6) years.

All unfair labor practice arising from Book V shall be filed with the appropriate agency within ~~one (1) year~~ THREE (3) YEARS from accrual of such unfair labor practice; otherwise, they shall be forever barred. (305a)

Art. 315. ILLEGAL DISMISSAL AND Money Claims. All CASES OF ILLEGAL DISMISSAL AND money claims arising from employer employee relations accruing during the effectivity of this Code shall be filed within ~~three (3)~~ FOUR (4) years from the time the cause of action accrued; otherwise they shall be forever barred.

~~All money claims accruing prior to the effectivity of this Code shall be filed with the appropriate entities established under this Code within one (1) year from the date of effectivity, and shall be processed or determined in accordance with the implementing rules and regulations of the Code; otherwise, they shall be forever barred.~~

~~Workmen's compensation claims accruing prior to the effectivity of this Code and during the period from November 1, 1974 up to December 31, 1974, shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975; otherwise, they shall forever be barred. The claims shall be processed and adjudicated in accordance with the law and rules at the time their causes of action accrued. (306a)~~

Art. 316. Institution of Money Claims. Money claims specified in the immediately preceding Article shall be filed before the appropriate entity independently of the criminal action that may be instituted in the proper courts.

Pending the final determination of the merits of money claims filed with the appropriate entity, no civil action arising from the same cause of action shall be filed with any court. This provision shall not apply to employees compensation cases which shall be

processed and determined strictly in accordance with the pertinent provisions of this Code. (307)

Title III Transitory and Final Provisions

Art. 317. Application of Law Enacted Prior to this Code. All actions or claims accruing prior to the effectivity of this REVISED Code shall be determined in accordance with the laws in force at the time of their accrual. (308)

Art. 318. Abolition of the Court of Industrial Relations and the National Labor Relations Commission. ~~The Court of Industrial Relations and the~~ EXISTING National Labor Relations Commission ~~established under Presidential Decree No. 21~~ are IS hereby abolished. All unexpended funds, properties, equipment and records of the ~~Court of Industrial Relations~~ NLRC, and such of its personnel as may be necessary, AS DETERMINED BY THE NLRC, are hereby transferred to the ~~Commission~~ CLR and to its regional branches. ~~All unexpended funds, properties and equipment of the National Labor Relations Commission established under Presidential Decree No. 21 are transferred to the Bureau of Labor Relations.~~ Personnel not absorbed by or transferred to the ~~Commission~~ CLR shall enjoy benefits granted under existing laws. (313a)

Art. 319. Personnel Whose Services are Terminated. Personnel of agencies or any of their subordinate units whose services are terminated as a result of the implementation of this Code shall enjoy the rights and protection provided ~~in Sections 5 and 6 of Republic Act numbered fifty-four hundred and thirty-five and such other~~ UNDER pertinent laws, rules and regulations. In any case, no lay-off shall be effected until funds to cover the gratuity ~~and/or~~ retirement benefits of those laid off are duly certified as available. (315a)

Art. 320. Separability Provisions. 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. (316)

Art. 321. 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.

Done in the City of Manila, this 1st day of May in the year of our Lord, ~~nineteen~~
~~hundred and seventy-four~~ (_____). (317a)