

AN ACT AMENDING ARTICLES 214, 217, 231, 232, 234, 249, 250, 251, 257, 262, 263, 264, 265, 278, 283, AND 284 OF PRESIDENTIAL DECREE NUMBERED FOUR HUNDRED AND FORTY-TWO, OTHERWISE...

BATAS PAMBANSA BLG. 130, August 21, 1981

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Be it enacted by the Batasang Pambansa in session assembled:

SECTION 1. Article 214 of the Labor Code, of the Philippines is hereby amended to read as follows:

"ART. 214. Headquarters and branches.—The Commission shall have its main office in Metropolitan Manila and its Chairman shall exercise supervision over labor arbiters and all its personnel. It shall establish as many branches as there are regional offices of the Ministry of Labor and Employment, with as many labor arbiters as shall be necessary for its effective operation, each branch to be headed by an executive labor arbiter who shall be a member of the Integrated Bar of the Philippines."

SEC. 2. Subparagraph (2) of paragraph (a) and paragraph (b) of Article 217 of the Labor Code are amended to read as follows:

"(2) Those that involve wages, hours of work and other terms and conditions of employment; and"

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

SEC. 3. Article 231 is hereby amended to read as follows:

"ART. 231. Registry of unions and file of collective agreements.—The Bureau shall keep a registry of legitimate labor organizations.

"It shall also maintain a file of all collective agreements and other related agreements and records of settlements of labor disputes, and copies of all orders and decisions of voluntary arbitrators. The file shall be open and accessible to interested parties under conditions prescribed by the Minister of Labor and Employment, provided that no specific information submitted in confidence shall be disclosed unless authorized by the Minister, or when it is at issue in any judicial litigation or when public interest or national security so requires.

"Parties shall submit copies of their collective agreement to the Bureau through the regional offices. Such agreements shall be accompanied with a verified proof of ratification by the majority of all the workers in the bargaining unit.

"The Bureau shall also maintain a file, and shall undertake or assist in the publication of all final decisions, orders, and awards of the Minister of Labor and Employment and the Commission."

SEC. 4. Article 232 of the Labor Code is amended to read as follows:

"ART. 232. Prohibition on certification election.— The Bureau shall not entertain any petition for certification election or any other action which may disturb the administration of existing collective bargaining agreements affecting the parties except under Articles 254 and 257 of this Code."

SEC. 5. Article 234 of the Labor Code is hereby amended to read as follows:

"ART. 234. Requirements of registration.—Any applicant labor organization, association or group of unions or workers 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-peso (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) The names of all its members comprising at least thirty (30%) per cent of all the employees in the bargaining unit where it seeks to operate;

"(d) If the applicant has been in existence for one or more years, copies of its annual financial reports; and

"(e) Four (4) copies of the constitution and by-laws of the applicant union, the minutes of its adoption or ratification, and the list of the members who participated in it."

SEC. 6. Article 249 of the Labor Code, as amended, is further amended by deleting paragraph (i), and renumbering paragraph (j) as paragraph (i), as follows:

"ART. 249. Unfair labor practices of employers.— It shall be unlawful for an employer 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 for employment that a person or an employee shall not join a labor organization or shall withdraw from one to which he belongs;

"(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 officers;

"(e) To discriminate in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in any labor organization. Nothing in this Code or in any other law shall prevent the parties from requiring membership in a recognized collective bargaining agent as a condition for employment, except of those employees who are already members of another union at the time of the signing of the collective bargaining agreement. Employees belonging to an appropriate collective 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 agreement: Provided, That the individual authorization required under Article 242, paragraph (o) of this Code shall not apply to non-members of the recognized collective bargaining agent;

"(f) To dismiss, discharge, or otherwise prejudice or discriminate against an employee for having given or feeling about to give testimony under this Code;

"(g) To violate the duty to bargain collectively as prescribed by this Code;

"(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."

SEC. 7. Article 250 of the Labor Code, as amended, is further amended by deleting paragraph (f) and renumbering paragraph (g) thereof as paragraph (f), as follows:

"ART. 250. Unfair labor practices of labor organizations.—It shall be unlawful for a labor organization, its officers, agents or representatives to commit any of the following unfair labor practices:

"(a) To restrain or coerce employees in the exercise of their right to self-organization: Provided, That the 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 employer to discriminate against an employee, including discrimination against an employee with respect to whom membership in such organization has been denied or terminated 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 employer, provided that it is the representative of the employees;

"(d) To cause or attempt to cause an employer 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 a 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."

SEC. 8. Article 257 of the Labor Code is hereby amended to read as follows:

"ART. 257. Procedure governing representation issues.—When a question concerning the representation of employees is submitted to the Ministry, a Med-Arbiter shall hear and decide such controversy and certify to the parties in writing the name of the labor organization that has been designated or selected by the majority of the workers in the appropriate bargaining unit as the exclusive bargaining agent. If there is any reasonable doubt as to which union the employees have chosen as their representative for the purpose of collective bargaining, the Med-Arbiter shall order an election by secret ballot to be conducted by the Ministry to ascertain the freely chosen representative of the employees concerned, under such rules and regulations as the Ministry may prescribe, at which election representatives of the contending parties shall have the right to act as inspectors. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining representative of the workers.

"No certification election issue shall be entertained if a collective agreement which has been submitted in accordance with Article 231 of this Code exists between the employer and a legitimate labor organization except within sixty (60) days prior to the expiration of the life of such collective agreement."

SEC. 9. Article 262 of the Labor Code is hereby amended to read as follows:

"ART. 262. Grievance machinery.—Whenever a grievance arises from the interpretation or implementation of a collective agreement, including disciplinary actions imposed on members of the bargaining unit, the employer and the bargaining representative shall meet to adjust the grievance. Where there is no collective agreement and in cases where the grievances procedure as provided herein does not apply, grievances shall be subject to negotiation, conciliation or arbitration as provided elsewhere in this Code."

SEC. 10. Article 263 of the Labor Code is hereby amended to read as follows:

"ART. 263. Voluntary arbitration.—All grievances referred to in the immediately preceding Article which are not settled through the grievance procedure provided in the collective agreement shall be referred to voluntary arbitration prescribed in said agreement: Provided, That termination disputes shall be governed by Article 278 of this Code, as amended, unless the parties agree to submit them to voluntary arbitration.

"Every collective agreement shall designate in advance an arbitrator or panel of arbitrators chosen by the parties or include provisions on the procedure for the selection of such arbitrator or panel of arbitrators. The, Ministry shall compile a list of qualified arbitrators and make the same available to the parties. Such arbitrator or panel of arbitrators shall have exclusive original jurisdiction to hear and decide all unsettled grievances referred to in the immediately preceding paragraph.

"Voluntary arbitration awards or decisions shall be final, unappealable, and executory."

SEC. 11. Article 264 of the Labor Code is hereby amended to read as follows:

"ART. 264. 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 certified or duly recognized bargaining representative may file a notice of strike or the employer may file a notice of lockout with the Ministry at least thirty (30) days before the intended date thereof. In cases of unfair labor practices, the period of notice shall be shortened to fifteen (15) days; and in the absence of a duly certified or recognized bargaining representative, the notice of strike may be filed by any legitimate labor organization in behalf of its members.

"(d) The notice must be in accordance with such implementing rules and regulations as the Minister of Labor and Employment may promulgate.

"(e) During the cooling-off period, it shall be the duty of the Ministry 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 at least two-thirds (2/3) of the total union membership in the bargaining unit concerned obtained by secret ballot in meetings or referenda. A decision to declare a lockout must be approved by at least two-thirds (2/3) of the board of directors of the employer corporation or association or of the partners in a partnership obtained by secret ballot in a meeting called for the 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 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 the results of the voting at least seven (7) days before the intended strike or lockout, subject to the

cooling-off period herein provided.

"(g) In labor disputes causing or likely to cause strikes or lockouts adversely affecting the national interest, such as may occur in but not limited to public utilities, companies engaged in the generation or distribution of energy, banks, hospitals, and those within export processing zones, the Minister of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout. 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 employers shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Minister may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same.

"The foregoing notwithstanding, the President of the Philippines shall have authority to intervene at any time and exercise jurisdiction over any labor dispute adversely affecting the national interest 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 Minister of Labor and Employment, the Commission or the voluntary arbitrator shall decide or resolve the dispute within thirty (30) working days from the date of the assumption or jurisdiction or the certification or submission of the dispute, as the case may be. The decision of the Minister, the Commission or the voluntary arbitrator shall be final and immediately executory."

SEC. 12. Article 265 of the Labor Code is hereby amended to read as follows:

"ART. 265. Prohibited activities.—It shall be unlawful for any labor organization or employer to 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.

"It shall likewise be unlawful to declare a strike or lockout after assumption of jurisdiction by the President or the Minister 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 worker whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full back wages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status."

SEC. 13. Paragraphs (a) and (b) of Article 278 of the Labor Code are hereby amended as follows:

"(a) All unions are authorized to collect reasonable contributions for their labor education and research funds.

"(b) Subject to the constitutional right of workers to security of tenure and their right to be protected against dismissal except for a just or authorized cause and without prejudice to the requirement of notice under Article 284 of this Code, the clearance to terminate employment shall no longer be necessary.

"However, the employer shall furnish the worker whose employment is sought to be terminated a written notice containing a statement of the causes for termination and shall afford the latter ample opportunity to be heard and to defend himself with the assistance of his representative if he so desires in accordance with company rules and regulations promulgated pursuant to guidelines set by the Ministry of Labor and Employment. Any decision taken by the employer shall be without prejudice to the right of the worker to

contest the validity or legality of his dismissal by filing a complaint with the regional branch of the National Labor Relations Commission. The burden of proving that the termination was for a valid or authorized cause shall rest on the employer. The Ministry may suspend the effects of the termination pending resolution of the case in the event of a prima facie finding by the Ministry that the termination may cause a serious labor dispute or is in implementation of a mass lay-off."

SEC. 14. Article 278 of the Labor Code is further amended by adding thereto the following new paragraphs:

"(e) The Minister of Labor and Employment and the Minister 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 Ministry. 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 Bureau to cover voluntary arbitration fees incurred by indigent parties, and for such other related purposes to promote and develop a voluntary arbitration program as may be authorized by the Minister. 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.

"(g) The Ministry 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 labor organization exists, labor-management committees may be formed voluntarily by workers and employers for the purpose of promoting industrial peace."

SEC. 15. Articles 283 and 284 of the Labor Code are hereby amended to read as follows:

"ART. 283. Termination by employer.—An employer may terminate an employment for any of the following just causes:

"(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

"(b) Gross and habitual neglect by the employee of his duties;

"(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

"(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

"(e) Other causes analogous to the foregoing."

"ART. 284. Closure of establishment and reduction of personnel.—The employer 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 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 worker affected thereby shall be entitled to a separation pay equivalent to at least his 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."

SEC. 16. Articles 220, 228, paragraph (f) of Article 251, Article 266, paragraph (b) of Article 273 of the Labor Code, and all provisions of said Code and other laws, orders, decrees and rules and regulations inconsistent with the provisions of this Act, are hereby repealed.

SEC. 17. This Act shall take effect upon its approval.

Approved, August 21, 1981.

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