

A DECREE INSTITUTING A LABOR CODE, THEREBY REVISING AND CONSOLIDATING LABOR AND SOCIAL LAWS TO AFFORD PROTECTION TO LABOR, PROMOTE EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND...

PRESIDENTIAL DECREE NO. 442, May 01, 1974

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PRELIMINARY TITLE

Chapter I

General Provisions

ARTICLE 1. Name of Decree. — This Decree shall be known as the "Labor Code of the Philippines."

ART. 2. Date of Effectivity. - This Code shall take effect six months after its promulgation.

ART. 3. Declaration of Basic Policy. — The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work.

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, shall be resolved in favor of labor.

ART. 5. Rules and Regulations. — The Department of Labor 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 newspapers of general circulation.

ART. 6. Applicability to Agricultural Workers. — In addition to the rights conferred upon them by Republic Act Numbered Thirty-eight Hundred and Forty-four, as amended, otherwise known as the Code of Agrarian Reforms of the Philippines, agricultural workers shall enjoy the rights and benefits granted by this Code to nonagricultural workers.

Chapter II

Emancipation of Tenants

ART. 7. Statement of Objectives. — Inasmuch as the old concept of land ownership by a few has spawned valid and legitimate grievances that gave rise to violent conflict and social tension and the redress of such legitimate grievances being one of the fundamental objectives of the New Society, it has become imperative to start reformation with the emancipation of the tiller of the soil from his bondage.

ART. 8. Transfer of Lands to Tenant Workers. - Being a vital part of the labor force, tenant-farmers on private

agricultural lands primarily devoted to rice and corn under a system of share crop or lease tenancy whether classified as landed estate or not shall be deemed owner of a portion constituting a family-size farm of five (5) hectares if not irrigated and three (3) hectares if irrigated.

In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it.

ART. 9. Determination of Land Value. For the purpose of determining the cost of the land to be transferred to the tenant-farmer, the value of the land shall be equivalent to two and a half (2 1/2) times the average harvest of three (3) normal crop years.

The total cost of the land, including interest at the rate of six (6) per centum per annum, shall be paid by the tenant in fifteen (15) equal amortizations.

In case of default, the amortizations due shall be paid by the farmers' cooperative having a right of recourse against him.

The Government shall guaranty such amortizations with shares of stock in government-owned and government-controlled corporations.

ART. 10. Conditions of Ownership. - No title to the land owned by the tenant-farmers shall be actually issued to a tenant-farmer unless and until the tenant has become a full-fledged member of a duly recognized farmers' cooperative.

Title to the land acquired pursuant to Presidential Decree No. 27 or the land Reform Program of the Government shall not be transferable except by hereditary-succession or to the Government in accordance with the provisions of this Code, the Code of Agrarian Reforms and other existing laws and regulations.

ART. 11. Implementing Agency. — The Department of Agrarian Reform shall promulgate the necessary rules and regulations to implement the provisions of this Chapter.

BOOK I

PRE EMPLOYMENT

ART. 12. Statement of Objectives. It is the policy of the State —

- To promote and maintain a state of full employment through improved manpower training, allocation and utilization;
- To protect every citizen desiring to work locally or overseas by securing for him the best possible terms and conditions of employment;
- To facilitate a free choice of available employment by persons seeking work in conformity with the national interest;
- To facilitate and regulate the movement of workers in conformity with the national interest;
- To regulate the employment of nonresident aliens;
- To strengthen the network of public employment offices and to undertake the phasing out of private fee-charging employment agencies; and
- To insure careful selection of Filipino workers for overseas employment in order to protect the good name of the

Philippines abroad.

Title I

RECRUITMENT AND PLACEMENT OF WORKERS

Chapter 1

General Provisions

ART. 13. Definition of Terms. — (a) "Private fee-charging employment agency" means any individual or entity engaged in the business of recruitment and placement of workers for a fee, whether the fee is charged from the workers or from the employers or both.

- "Private non-fee-charging employment agency" refers to any individual or entity engaged in the recruitment and placement of workers free of charge, whether from the workers or from the employers or both.

- "Recruitment" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, including referrals, contact services, promising employment or advertising for employment locally or abroad whether for profit or not: Provided, That whenever two or more persons are in any manner promised or offered employment for a fee, the individual or entity making such offer or promise shall be deemed engaged in recruitment.

- "Worker" or "Employee" includes any individual employed by an employer or any person hired to perform service of any kind for a valuable consideration, including household or domestic helpers and crew members of vessels or seamen.

- "Immigrant worker" means any person who works in a foreign country by virtue of an immigrant visa or resident permit as distinguished from a work permit or working visa.

- "License" means a document issued to an individual or entity by the Department of Labor authorizing such individual or entity to operate private fee-charging employment agency.

- "Authority" refers to the document issued to any person or entity by the Department of Labor authorizing such person or entity to operate a private non-fee-charging employment agency.

- "Seamen" includes all persons employed on any vessel engaged in maritime navigation.

ART. 14. Employment Promotion. — The Secretary of Labor shall have the power and authority to:

- Organize and establish new employment offices in addition to the existing employment offices under the Department of Labor as the need arises;

- 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;

- Develop and organize programs that will facilitate occupational, industrial and geographical mobility of labor and provide assistance in the relocation of workers from one area to another; and

- Require any person, establishment, organization or institution to submit such employment information as may be prescribed by the Secretary of Labor.

ART. 15. Power to Phase Out. — The Department of Labor shall phase out within four (4) years from the

effectivity of this Code the operation of all private fee-charging employment agencies, including those engaged in the overseas recruitment and placement of individuals for personal services or for the crew of a vessel.

Upon the completion of such phaseout, no person or entity shall directly or indirectly engage, for profit or any pecuniary or material advantage, in any recruitment or placement activity. Non-fee-charging employment agencies or placement services undertaken by schools or by civic or charitable organizations or by employers for their own use may continue under such rules and regulations as may be promulgated by the Secretary of Labor.

ART. 16, Over-seas Employment Development Board, Creation of. — An Overseas Employment Development Board is hereby created to undertake a systematic program for overseas employment of Filipino workers, other than seamen, in excess of domestic needs and to protect their rights to fair and equitable employment practices.

It shall seek to:

- Meet the increasing demand for trained and competent Filipino workers in foreign countries;
- Generate foreign exchange from the earnings of Filipinos employed under the program;
- Promote the employment of Filipinos under government-to-government arrangement;
- Secure better terms and conditions of employment of Filipino workers overseas; and
- Promote the development of the skills and careful selection of employment of Filipino workers for overseas employment.

The Board shall be attached to the Department of Labor for policy and program coordination and for the efficient conduct of its duties.

ART. 17. Composition of Overseas Employment Development Board. — The Board shall be composed of:

The Secretary of Labor as Chairman and a representative each of the Department of National Defense, the Department of Foreign Affairs, the Central Bank and the Department of Justice, as members.

The Board shall be assisted by a Secretariat headed by an Executive Director. The Executive Director shall be appointed by the President of the Philippines upon recommendation of the Secretary of Labor who shall appoint the members of the Secretariat. The Executive Director and members of the Secretariat shall be exempt from the provisions of laws, rules and regulations of the Wage and Position Classification Office except clerical and janitorial services.

The Executive Director shall be a Filipino citizen with sufficient experience in manpower administration, including overseas employment activities.

The Executive Director shall receive an annual salary of P40,000 and a commutable representation and transportation allowance of P500 a month.

The Auditor General shall appoint his representative to the Board to audit its accounts in accordance with auditing laws and pertinent rules and regulations.

The Chairman and all members of the Board shall each receive a per diem of P100 for their attendance of every meeting of the Board: Provided, That where the representative of an ex officio member attends a meeting in behalf of the latter, such representative shall be entitled to receive the per diem.

ART. 18. Board Authorized to Collect Fees. —The Board shall have the power to impose and collect fees from workers and employers concerned or both, the proceeds of which shall accrue to a special fund to be used

exclusively for the promotion of the objectives of the Board.

ART. 19. Board to Issue Rules and Regulations. — The Board shall issue appropriate rules and regulations to carry out its functions.

ART. 20. National Seamen Board, Creation of. — There is hereby created a body to be known as a National Seamen Board.

It shall:

- Establish and maintain a comprehensive seamen training program;
- Provide free placement services for seamen;
- Obtain the best possible terms and conditions of employment for seamen;
- Secure full implementation of the employment contracts of seamen; and
- Maintain a complete registry of all seamen.

ART. 21. Composition of National Seamen Board. — The Board shall be attached to the Department of Labor for policy and program coordination and shall be composed of: the Secretary of Labor as Chairman, the Commandant of the Philippine Coast Guard, and a representative of each of the Department of Foreign Affairs, a national seafarers organization and a national shipping association, as members.

The Chairman and all members of the Board shall each receive a per diem of P100 for their attendance of every meeting of the Board: Provided, That where the representative of the ex officio member attends a meeting in behalf of the latter, such representative shall be entitled to receive the per diem.

The Board shall be assisted by a Secretariat headed by an Executive Director. The Executive Director and members of the Secretariat shall be exempt from the provisions of laws, rules and regulations of the Wage and Position Classification Office except clerical and janitorial services.

The Executive Director shall be a Filipino citizen with sufficient experience in manpower administration, including overseas employment activities.

The Executive Director shall receive an annual salary of P24,000 and a commutable representation and transportation allowance of P500 a month.

The Auditor General shall appoint his representative to the Board to audit its accounts in accordance with auditing laws and pertinent rules and regulations.

ART. 22. Board Authorized to Collect Fees. — The Board shall have the power to impose and collect fees from workers and employers concerned or both, the proceeds of which shall accrue to a special fund to be used exclusively for the promotion of the objectives of the Board.

ART. 23. Board to Issue Rules and Regulations. — The Board shall issue appropriate rules and regulations to carry out its functions.

Chapter II

Regulation of Recruitment and Placement Activities

ART. 24. Authority or License to Recruit. — No individual or entity may engage in the business of a private fee-charging employment agency without first obtaining a license from the Department of Labor.

No individual or entity may operate a private non-fee-charging employment agency without first obtaining an authority from the Department of Labor.

ART. 25. Travel Agencies Prohibited to Recruit. — Travel agencies are prohibited from engaging in the business of recruitment and placement of workers for overseas employment whether for profit or not.

The Secretary of Labor shall issue rules and regulations establishing the requirements and the procedures for the issuance of a license or authority.

Every existing authority or license to hire or recruit workers on the date of effectivity of this Code shall remain valid for the duration indicated therein unless sooner cancelled, revoked, or suspended for cause by the Secretary of Labor. However, said authority or license to hire or recruit may be renewed: Provided, That the holders thereof shall comply with all applicable provisions of this Code and its implementing rules and regulations.

ART. 26. Citizenship Requirement. — No license or authority to recruit or hire workers shall be issued or renewed except in favor of Filipino citizens or corporations, partnerships or entities at least 60 percent of the authorized capital stock of which is owned and/or controlled by Filipino citizens.

ART. 27. Capitalization. — All applicants for license to recruit and currently licensed recruiters for overseas employment are required to have a minimum capitalization or assets in the amount of P150,000 in the case of private individuals and a paid-up capital of P150,000 in the case of corporations, partnerships or other entities.

ART. 28. Nontransferability of License or Authority. — No license or authority shall be issued directly or indirectly by any person other than the one in whose favor it was issued at any place other than that stated in the license or authority, nor may such license or authority be transferred, conveyed or assigned to any other person or entity. Any transfer of business address, appointment or designation of any agent or representative including the establishment of additional offices anywhere shall be subject to the prior approval of the Department of Labor.

ART. 29. License Fee. — Any private fee-charging employment agency applying for license or renewal thereof under this Code shall file a written application with the Secretary of Labor and shall pay to the account of the Department of Labor an annual license fee of P2,000 in the case of recruitment for local employment and P6,000 in the case of recruitment for overseas employment.

ART. 30. Bond. - Any private fee-charging employment agency shall post a cash bond in the amount of P10,000 and a surety bond in the amount of P50,000 if engaged in recruitment for overseas employment; a cash bond in the amount of P5,000 and a surety bond in the amount of P25,000 if engaged in the recruitment for local employment, to guarantee compliance with prescribed recruitment procedures, rules and regulations and terms and conditions of employment as appropriate.

The Secretary of Labor shall have the exclusive power to determine, decide, order, or direct payment from or application of the cash and surety bond for any claim or injury covered and guaranteed by the bond.

ART. 31. Allowable Fee. — Any person applying with a private fee-charging employment agency 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 approved receipt clearly showing the amount paid. The Secretary of Labor shall promulgate a schedule of allowable fees.

ART. 32. Mandatory Remittance of Foreign Exchange Earnings. — It shall be mandatory for all contract workers abroad to remit a portion of their foreign exchange earnings to their families, dependents, and/or beneficiaries in the country in accordance with rules and regulations prescribed by the Secretary of Labor in consultation with the committee on mandatory remittance of foreign exchange earnings established by the President under Letter of

Instruction No. 90, dated June 16, 1973.

ART. 33. Prohibited Practices. — It shall be unlawful for any individual, entity, licensee or holder of authority:

- 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, or to make a worker pay any amount greater than that actually received by him as a loan or advance;
- To furnish or publish any false notice or information or document in relation to recruitment or employment;
- 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;
- To induce or attempt to induce a worker already employed to quit his employment in order to offer him to another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;
- To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;
- To obstruct or attempt to obstruct inspection by the Secretary of Labor or by his duly authorized representatives;
- To fail to file reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor;
- To substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the period of expiration of the same without the approval of the Department of Labor;
- To become officer or member of the board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency; and
- To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under this Code and its implementing rules and regulations.

ART. 34. Suspension and/or Cancellation of License or Authority. —The Secretary of Labor shall have the power to suspend or cancel any license or authority to recruit employees for overseas employment for violation of rules and regulations issued by the Secretary of Labor, the Overseas Employment Development Board, and the National Seamen Board, or for violations of the provisions of this and other Presidential decrees, the Revised Penal Code, the Anti-Dummy Law, general orders and letters of instruction.

ART. 35. Foreign Service Role/Participation. — To provide ample protection to Filipino workers abroad, Philippine labor attaches or labor reporting officers duly designated by the Secretary of Labor through the Department of Foreign Affairs or any Philippine diplomatic or consular officials concerned shall, even without prior instruction or advice from the home office:

- Provide counselling assistance to all Filipino workers within their jurisdiction on all matters arising out of employment;
- Ensure that Filipino workers are not exploited and discriminated against;

- Gather and analyze available information on the employment situation, and its probable trends and to make such information available to the Department of Labor and the Department of Foreign Affairs for dissemination to the public;
- Make continuous and special researches/studies and recommendations on the various aspects of the employment market within their jurisdictional area; and
- Perform such other duties as may be required of them from time to time.

Chapter III

Miscellaneous Provisions

ART. 36. Regulatory Powers. — (a) The Secretary of Labor shall have the power to restrict and regulate the recruitment 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 hereof.

- Whenever the public interest so requires, the Secretary of Labor may direct all persons or entities within the coverage of this Title to submit a report on the status of employment, placement, vacancies, details of job requisitions, separation from jobs, wages and other terms and conditions of employment.
- The Secretary of Labor or his 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 to act on violations of any provisions under this Title.

ART. 37. Jurisdiction.— (a) Any violation of the provisions of this Title or its implementing rules and regulations as promulgated by the Secretary of Labor shall fall within the concurrent jurisdiction of the Military Tribunals and the regular courts. The court that first assumes jurisdiction shall exclude the other.

- All matters or questions involving employer-employee relations, including money claims arising from this Title, shall be under the original and exclusive jurisdiction of the National Labor Relations Commission.

ART. 38. Penalty. — Persons who are licensees or holders of authority under the provisions of this Title found violating or causing another to violate any provisions of this Title or of the rules and regulations issued thereunder shall, upon conviction thereof, suffer the penalty of imprisonment of not less than two (2) years nor more than five (5) years or a fine of not less than P2,000 nor more than P30,000 or both imprisonment and fine at the discretion of the court; while persons who are not licensees or holders of authority under this Title found violating any provision of this Title shall upon conviction therefor suffer the penalty of imprisonment of not less than Four (4) years but not more than eight (8) years or a fine of not less than P5,000 nor more than P35,000 or both imprisonment and fine at the discretion of the court.

In addition thereto such conviction shall cause the automatic forfeiture of the bond — cash as well as surety — in favor of the special fund for the promotion of the objectives of the Overseas Employment Development Board or the National Seamen Board, as the case may be, and also the automatic revocation of the license or authority and all permits and privileges granted to such person or entity under this Title: Provided, however, That if the offender is a corporation, partnership, association, or entity, the penalty shall be imposed upon the guilty officer or officers, as the case may be, of the corporation, partnership, association or entity; and if such guilty officer is an alien, in addition to the penalties herein prescribed, he shall be deported without further proceedings.

Title II

EMPLOYMENT OF NONRESIDENT ALIENS

ART. 39. Employment Permit for Nonresident Aliens. — Any alien seeking admission to the Philippines for employment purposes and any domestic or foreign employer who desires to engage an alien for employment in the Philippines shall obtain an employment permit from the Department of Labor.

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

For an enterprise 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.

ART. 40. Prohibition Against Transfer of Employment. — After the issuance of an employment permit, the alien shall not transfer to another job or change his employer without prior approval of the Secretary of Labor.

ART. 41. Submission of List. — Any employer employing nonresident 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 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.

BOOK II

HUMAN RESOURCES DEVELOPMENT

Title I

NATIONAL MANPOWER DEVELOPMENT PROGRAM

Chapter I

National Policies and Administrative Machinery for Their Implementation

ART. 42. Statement of Objective. - It is the objective of this Title to develop human resources, establish training institutions, and formulate such plans and programs as will ensure efficient allocation, development and utilization of the nation's manpower and thereby promote employment and accelerate economic and social growth.

ART. 43. Definition. — As used in this Title (a) "Manpower" shall mean that portion of the nation's population which has actual or potential capability to contribute directly to the production of goods and services; and

- "Entrepreneurship" shall mean training for self-employment or assisting individual or small industries within the purview of this Title.

ART. 44. National Manpower and Youth Council, Composition. - To carry out the objectives of this Title, the National Manpower and Youth Council, which is attached to the Department of Labor for policy and program coordination and hereinafter referred to as the Council, shall be composed of the Secretary of Labor as ex officio chairman, the Secretary of Education and Culture as ex officio vice-chairman, and us ex officio members: the Director-General of the National Economic and Development Authority; the Secretary of Agriculture and Natural Resources; the Secretary of Social Welfare; the Secretary of Local Government and Community Development; the Chairman of the National Science Development Board; the Secretary of Industry and the Executive Director

of the Council. The Executive Director of the Council shall have no vote.

In addition, the President shall appoint the following members from the private sector: two representatives of national organizations of employers; two representatives of national workers organizations; and two from national family and youth organizations, each for a term of three years.

All Council members shall be entitled to per diems of one hundred pesos (P100) for each meeting and for not more than thirty (30) meetings within one (1) year and payment of the travelling expenses incurred in connection with their duties therein.

ART. 45. National Manpower Plan. - The Council shall formulate a long-term national manpower plan for the optimum allocation, development and utilization of manpower for employment, entrepreneurship and economic and social growth. This manpower plan shall, after adoption by the Council, be updated annually and submitted to the President for his approval. Thereafter, it shall be the controlling plan for the development of manpower resources for the entire country in accordance with the national development plan. The Council shall call upon any agency of the Government or the private sector to assist in this effort.

ART. 46. National Manpower Skills Center. — The Council shall establish a National Manpower Skills Center and regional and local training centers for the purpose of promoting the development of skills. The centers shall be administered and operated under such rules and regulations as may be established by the Council.

ART. 47. Establishment and Formulation of Skills Standards. — There shall be national skills standards for industry trades to be established by the Council in consultation with employers and workers organizations and appropriate government authorities. The Council shall thereafter administer the national skills standards.

ART. 48. Administration of Training Programs. — The Council shall provide through the Secretariat instructor training, entrepreneurship development, training in vocations, trades and other fields of employment, and assist any employer or organization in training schemes designed to attain its objectives under rules and regulations which the Council shall establish for this purpose.

The Council shall exercise, through the Secretariat, authority and jurisdiction over, and administer, ongoing technical assistance programs and/or grants-in-aid for manpower and youth development including those which may be entered into between the Government of the Philippines and international and foreign organizations and nations, as well as persons and organizations in the Philippines.

In order to integrate the national manpower development effort, all manpower training schemes as provided for in this Code shall be coordinated with the Council particularly those having to do with the setting of skills standards. For this purpose, existing manpower training programs in the Government and in the private sector shall be reported to the Council which may regulate such programs to make them conform with national development programs.

This Article shall not include apprentices, learners and handicapped workers as governed by appropriate provisions of this Code.

ART. 49. Industry Boards. — The Council shall establish industry boards to assist in the establishment of manpower development schemes, trades and skills standards and such other functions as will provide direct participation of employers and workers in the fulfillment of the Council's objectives, in accordance with guidelines to be established by the Council and in consultation with the National Economic and Development Authority.

ART. 50. Employment Service Training Functions. — The Council shall utilize the employment service of the

Department of Labor for the placement of its graduates. The Bureau of Employment Services shall render assistance to the Council in the measurement of unemployment and underemployment, conduct of local manpower resource surveys and occupational studies including an inventory of the labor force, establishment and maintenance without charge of a national register of technicians who have successfully completed a training program under this Act, and skilled manpower including its periodic publication, maintenance of an adequate and up-to-date system of employment information.

ART. 51. Incentive Scheme. — An additional deduction from taxable income of one-half (Vi) of the value of labor training expenses incurred for developing or upgrading the productivity and efficiency of unskilled labor or for management development programs shall be granted to the person or enterprise concerned provided such training program is approved by the Council and provided that such deduction shall not exceed 10% of direct labor wage.

ART. 52. Council Secretariat. — To carry out the objectives of this Title, the Council shall have a Secretariat headed by an Executive Director appointed by the President on recommendation of the Council. The Executive Director shall be assisted by one Deputy Executive Director who shall be a career administrator likewise to be appointed by the President on recommendation of the Council. The Secretariat shall have an Office of Manpower Planning and Development, a National Manpower Skills Center, regional manpower development centers, and such other offices as may be deemed necessary.

The Executive Director shall have the rank and emoluments of an undersecretary and shall serve for a term of ten (10) years. The directors of the Office of Manpower Planning and Development and the Skills Center shall have the rank and emoluments of a bureau director and shall be subject to Civil Service Law, rules and regulations. The Executive Director, Deputy Executive Director, and Directors shall be natural-born citizens, from 30 to 50 years of age at the time of appointment, have a master's degree or its equivalent, and experience in national planning and development of human resources. The Director of the Skills Center shall, in addition to the foregoing qualifications, have undergone training in center management. Directors shall be appointed by the President on recommendation of the Council.

The Executive Director shall appoint such personnel necessary to carry out the objectives, policies and functions of the Council subject to Civil Service rules.

The Secretariat shall have the following functions and responsibilities:

- To prepare and recommend the manpower plan for approval by the Council;
- To recommend allocation of resources for the implementation of the manpower plan as approved by the Council;
- To carry out the manpower plan as the implementing arm of the Council;
- To effect the efficient performance of the functions of the Council and the achievement of the objectives of this Title;
- To determine specific allocation of resources for projects to be undertaken pursuant to approved manpower plans;
- To submit to the Council periodic reports on progress and accomplishment of work programs;
- To prepare for approval by the Council an annual report to the President on plans, programs and projects on manpower and out-of-school youth development;
- To enter into agreements to implement approved plans and programs and perform any and all such acts as will

fulfill the objectives of this Code as well as ensure the efficient performance of the functions of the Council; and

- To perform such other functions as may be authorized by the Council.

ART. 53. Regional Manpower Development Centers. — The Council shall create regional manpower development centers which shall determine the manpower needs of industry, agriculture and other sectors of the economy within their respective jurisdictions; provide the Council central planners with the data for updating the National Manpower plan; recommend programs for the regional level agencies engaged in manpower and youth development within the policies formulated by the Council; perform such other duties as may be assigned by the Council; administer and supervise Secretariat training programs within the region; and perform such other functions as may be authorized by the Council.

ART. 54. Consultants and Technical Assistance, Publication and Research. — In pursuing its objectives, the Council is authorized to set aside a portion of its appropriation for the hiring of the services of qualified consultants, and/or private organizations for research work publication. It shall avail itself of the services of other agencies of the Government as may be required.

ART. 55. Rules and Regulations. — The Council shall define its broad functions and issue appropriate rules and regulations necessary to implement the provisions of this Code.

Title II

TRAINING AND EMPLOYMENT OF SPECIAL WORKERS

Chapter I

Apprenticeship

ART. 56. Statement of Objectives. — This Title aims:

- To help meet the demand of the economy for trained manpower;
- To establish a national apprenticeship program through the participation of employers, workers, and government and non-government agencies; and
- To establish apprenticeship standards for the protection of apprentices.

ART. 57. Definition of Terms. — As used in this Title:

- "Apprenticeship" means practical training on the job supplemented by related theoretical instruction;
- 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;
- 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; and
- "Apprenticeship agreement" is an employment contract wherein the employer binds himself to train the apprentice and the apprentice in turn accepts the terms of training.

ART. 58. Qualifications of Apprentice. — To qualify as an apprentice, a person shall:

- Be at least fourteen (14) years of age;
- Possess vocational aptitude and capacity for apprenticeship as established through appropriate tests; and

- Possess the ability to comprehend and follow oral and written instructions.

Trade and industry associations may recommend to the Secretary of Labor appropriate educational requirements for different occupations.

ART. 59. Who May Employ Apprentices. — Employers may enter into apprenticeship agreements or otherwise employ apprentices only in apprenticeable trades and occupations approved by the Secretary of Labor.

ART. 60. Contents of Apprenticeship Agreements. — Apprenticeship agreements including wage rates of apprentices shall conform with applicable rules and regulations issued by the Secretary of Labor.

Apprenticeship agreements providing for wage rates below the legal minimum wage may be entered into only in accordance with apprenticeship programs duly approved by the Department of Labor. The Department shall develop standard model programs of apprenticeship.

ART. 61. Signing of Apprenticeship Agreement. — Every apprenticeship agreement shall be signed by the employer or his agent, or by an authorized representative of any of the recognized organizations, associations or groups, and by the apprentice.

An apprenticeship agreement with a minor shall be signed in his behalf by his parent or guardian and the same shall be binding up to the stipulated termination of the contract.

Every apprenticeship agreement entered into under this Title shall be ratified by the appropriate apprenticeship committees, if any, and a copy thereof shall be furnished both the employer and the apprentice.

ART. 62. Venue of Apprenticeship Programs. — Any firm, employer group or association, industry organization or civic group wishing to organize an apprenticeship program may choose from any of the following apprenticeship schemes as the training venue for apprentices:

- Apprenticeship conducted entirely by and within the sponsoring firm, establishment or entity;
- Apprenticeship entirely within a Department of Labor training center or other public training institution; or
- 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.

ART. 63. Sponsoring of Apprenticeship Program. — Any of the apprenticeship schemes recognized herein may be undertaken or sponsored by a single employer or firm or by a group or association thereof, or by a civic organization. Actual training of apprentices may be undertaken:

- In the premises of the sponsoring employer in the case of individual apprenticeship programs;
- 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
- In a Department of Labor training center or other public training institution.

ART. 64. 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 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.

ART. 65. Appeal to the Secretary of Labor. — The decision of the authorized agency of the Department of Labor may be appealed by any aggrieved person to the Secretary of Labor within five (5) days from receipt of the

decision. The decision of the Secretary of Labor shall be final and executory.

ART. 66. Exhaustion of Administrative Remedies. — No person shall institute any action for the enforcement of any apprenticeship agreement, or damages for breach of any-such agreement, unless he has exhausted all available administrative remedies.

ART. 67. Aptitude Testing of Applicants. — Consonant with the minimum qualifications of apprentice-applicants required under this Chapter, employers or entities with duly approved 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 shall perform the services free of charge.

ART. 68. Responsibility for Theoretical Instruction. — Supplementary theoretical instruction to apprentices in cases where the program is undertaken in the plant may be done by the employer. If the latter is not prepared to assume the responsibility, the same may be delegated to an appropriate government agency.

ART. 69. Voluntary Organization of Apprenticeship Programs; Exceptions. — The organization of apprenticeship programs shall be primarily a voluntary undertaking of employers. 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. Appropriate rules in this connection shall be promulgated by the Secretary of Labor as the need arises.

The number of apprentices to be compulsorily employed, in the case of factories and other industrial enterprises, shall depend upon the exigencies of the situation.

ART. 70. 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 such program is duly recognized by the Department of Labor: Provided, further, That such deduction shall not exceed 10% of direct labor wage: And provided, finally, That the person or enterprise who wishes to avail of this incentive should pay his apprentices the minimum wage.

ART. 71. Apprentices Without Compensation. — The Secretary of Labor may authorize the hiring of apprentices without compensation whose training on the job is required by the school or training program curriculum or as a requisite for graduation or board examination.

Chapter II

Learners

ART. 72. Learners Defined. — Learners are persons hired as trainees in semiskilled and other industrial occupations which are non-apprenticeable and which may be learned through practical training on the job in a relatively short period of time which shall not exceed three (3) months.

ART. 73. When Learners May Be Hired. — Learners may be employed when no experienced workers are available, the employment of learners is necessary to prevent curtailment of employment opportunities, and the employment does not create unfair competition in terms of labor costs or impair or lower working standards.

ART. 74. Learnership Agreement. — Any employer desiring to employ learners shall enter into a learnership agreement with them, which agreement shall include:

- The names and addresses of the learners;

- The duration of the learnership period, which shall not exceed three (3) months;
- The wages or salary rates of the learners which shall begin at not less than seventy-five percent (75%) of the applicable minimum wage; and
- A commitment to employ the learners, if they so desire, as regular employees upon completion of the learnership. All learners who have been allowed or suffered to work during the first two (2) months shall be deemed regular employees if training is terminated by the employer before the end of the stipulated period through no fault of the learner.

The learnership agreement shall be subject to inspection by the Secretary of Labor or his duly authorized representative.

ART. 75. Learners in Piecework. — Learners employed in piece or incentive rate jobs during the training period shall be paid in full for the work done.

ART. 76. Penalty Clause. — Any violation of this Chapter or its implementing rules and regulations shall be subject to the general penalty clause provided for in this Code.

Chapter III

Handicapped Workers

ART. 77. Definition. — Handicapped workers are those whose earning capacity is impaired by age or physical or mental deficiency or injury.

ART. 78. When Employable. — Handicapped workers may be employed when their employment is necessary to prevent curtailment of employment opportunities and when it does not create unfair competition in labor costs or impair or lower working standards.

ART. 79. Employment Agreement. — Any employer who employs handicapped workers shall enter into an employment agreement with them, which agreement shall include:

- The names and addresses of the handicapped workers to be employed;
- The rate to be paid the handicapped workers which shall be not less than seventy-five percent (75%) of the applicable legal minimum wage;
- The duration of employment period; and
- The work to be performed by handicapped workers.

The employment agreement shall be subject to inspection by the Secretary of Labor or his duly authorized representatives.

ART. 80. Eligibility for Apprenticeship. — Subject to the appropriate provisions of this Code, handicapped workers may be hired as apprentices or learners if their handicap is not such as to effectively impede the performance of job operations in the particular occupations for which they are hired.

ART. 81. Penalty Clause. — Violation of any provision of this Chapter or its implementing rules and regulations shall be subject to the general penalty clause provided for in this Code.

BOOK III

CONDITIONS OF EMPLOYMENT

Title I

WORKING CONDITIONS AND REST PERIODS

Chapter I

Hours of Work

ART. 82. Coverage. The provisions of this Chapter shall apply to employees in all establishments and undertakings, whether for profit or not, but not to government employees, managerial employees, field personnel, domestic servants, persons in the personal service of another, workers who are paid by results when their output rates have been fixed by the Secretary of Labor as provided for in this Book, and members of the family of the employer who are dependent on him for support.

As used herein, "managerial employee" refers (a) to those whose primary duty consists of the management of the establishment in which they are employed or of a department or subdivision thereof or (b) to other officers or members of the managerial staff.

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

ART. 83. Normal Hours of Work. — The normal hours of work of any employee shall not exceed eight (8) in a day.

Health personnel shall hold regular office hours for eight (8) hours a day, for five (5) days a week, or a total of forty (40) hours a week, exclusive of time for lunch, if their services are rendered in cities and municipalities with a population of one (1) million or more or in hospitals and clinics with a bed capacity of at least one hundred (100). For purposes of this Article, "health personnel" shall include government and private resident physicians, nurses, nutritionists, dieticians, pharmacists, social workers, laboratory technicians, paramedical technicians, psychologists, midwives, attendants and all other hospital or clinic personnel.

ART. 84. Hours Worked. — Hours worked shall include:

- All time during which an employee is required to be on duty or to be at a prescribed workplace; and
- All time during which an employee is suffered or permitted to work.

Rest periods of short duration during working hours shall be counted as hours worked.

ART. 85. Meal Periods. — Subject to such regulations as the Secretary of Labor may prescribe, it shall be the duty of every employer to give his employees not less than sixty (60) minutes time-off for their regular meals.

ART. 86. Overtime Work.— Work may be performed beyond eight (8) hours a day provided that the employee is paid for the overtime work an additional compensation equivalent to his regular wage plus at least twenty-five percent (25%) thereof.

ART. 87. Premium and Overtime Pay for Holiday and Rest Day Work. — Any employee performing work on holidays or on his scheduled rest days, not exceeding eight (8) hours, shall be paid an additional compensation of

not less than thirty percent (30%) of his regular wage. For work performed in excess of eight (8) hours on such days, he shall be paid an additional compensation equivalent to his rate for the first eight (8) hours on a holiday or rest day plus at least thirty percent (30%) thereof.

ART. 88. 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 employee to go on leave on some other day of the week shall not exempt the employer from paying the additional compensation required in this Chapter.

ART. 89. Emergency Overtime Work. — Any employee may be required by the employer to perform overtime work in any of the following cases:

- 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;
- 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;
- When there is urgent work to be performed on machines, installation, or equipment, in order to avoid serious loss or damage to the employer or some other cause of similar nature;
- When the work is necessary to prevent loss or damage to perishable goods; and
- 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.

Any employee required to render overtime work under this Article shall be paid the additional compensation required in this Chapter.

ART. 90. 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.

Chapter II

Weekly Rest Periods

ART. 91. Right to Weekly Rest Day. — It shall be the duty of any employer, whether operating for profit or not, to provide each of his employees a rest period of not less than twenty-four (24) consecutive hours for every seven (7) consecutive days.

ART. 92. Determination of Rest Day. — The employer shall determine and schedule the weekly rest day of his employees, subject to collective bargaining agreement and to such rules and regulations as the Secretary of Labor may prescribe. The preference of the employees as to their weekly rest days shall be respected by the employer if the same is based on religious grounds.

ART. 93. When Employer May Require Work on a Rest Day. — The employer may require his employees to work on any day:

- 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; or in cases of urgent work to be performed on the machinery, equipment, or installation, to avoid serious loss which the employer would otherwise suffer;

- In the event of abnormal pressure of work due to special circumstances, where the employer cannot ordinarily be expected to resort to other measures;
- To prevent loss or damage to perishable goods;
- 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
- Under other circumstances analogous or similar to the foregoing as determined by the Secretary of Labor.

ART. 94. Compensation for Rest Day/Sunday/Holiday Work. —

- Where an employee is made or permitted to work on his scheduled rest day, he shall be paid an additional compensation of at least thirty percent (30%) of his regular wage. An employee shall be entitled to such additional compensation for work performed on Sunday only when it is his established rest day.
- When the nature of the work of the employee is such that he has no regular work days and no regular rest days can be scheduled, he shall be paid an additional compensation of at least thirty percent (30%) of his regular wage for work performed on Sundays and holidays.
- Work performed on any legal holiday shall be paid with 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 percent (50%) of his 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 employer shall pay such higher rate.

Title II

WAGES

Chapter I

Preliminary Matters

ART. 95. Definitions. — As used in this Title:

- "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons;
- "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, as well as nonprofit private institutions or organizations;
- "Employee" includes any individual employed by an employer;
- "Agriculture" includes farming in all its branches and among other things includes the 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 or on a farm as an incident to or in conjunction with such farming operations but does not include the manufacturing or processing of sugar, coconut, abaca, tobacco, pineapples or other farm products;
- "Employ" includes to suffer or permit to work; and

- "Wage" paid to any employee shall mean 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 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, 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.

ART. 96. Application of Title. — This Title shall not apply to farm tenancy or leasehold, domestic service and persons working in their respective homes in needlework or in any cottage industry duly registered in accordance with law.

Chapter II

Minimum Wage Rates

ART. 97. Statutory Minimum Wages. — The minimum wage rates for agricultural and nonagricultural employees shall be those prescribed by law in force on the date this Code takes effect.

ART. 98. Prohibition Against Reduction or Elimination of Wages or Benefits. — Nothing in this Title shall be construed to authorize any employer to eliminate, or diminish in any way, supplements, or other employee benefits being enjoyed at the time of promulgation of this Code.

ART. 99. Payment by Results. — The Secretary of Labor shall regulate the payment of wages by results, including pakyao, 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.

Chapter III

Payment of Wages

ART. 100. 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 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 or is stipulated in a collective bargaining agreement.

ART. 101. 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.

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:

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

No employer shall make payment with less frequency than once a month.

ART. 102. 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 may prescribe under conditions to ensure greater protection of wages.

ART. 103. Direct Payment of Wages. — Wages shall be paid directly to the workers to whom they are due, except:

- In cases of force majeure rendering such payments impossible or under other special circumstances to be determined by the Secretary of Labor in appropriate regulations, in which cases the worker may be paid through another person under written authority given by the worker for the purpose; and

- Where the worker has died, in which case the employer 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 behalf by his natural guardian or next of kin. The affidavit shall be presented to the employer who shall make payment through the Secretary of Labor or his representative. The representative of the Secretary of Labor shall act as referee in dividing the amount paid among the heirs. The payment of wages under this Article shall absolve the employer of any further liability with respect to the amount paid.

ART. 104. Contractor or Subcontractor. — Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.

The Secretary of Labor 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 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 employer for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.

Labor-only contracting shall be deemed unlawful where the person supplying workers to an employer 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 person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him.

ART. 105. 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.

ART. 106. Posting of Bond. — An employer or indirect employer may require the contractor or subcontractor 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 contractor or subcontractor, as the case may be, fail to pay the same.

ART. 107. Solidary Liability. — The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor 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.

ART. 108. 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 Wages due them for services rendered during the period prior to the bankruptcy or liquidation, any provision of law to the contrary notwithstanding. Unpaid wages shall be paid in full before other creditors may establish any claim to a share in the assets of the employer.

ART. 109. Attorney's Fees. — Attorney's fees in any judicial or administrative proceedings for the recovery of wages shall not exceed ten percent (10%) of the amount awarded.

Chapter IV

Prohibitions Regarding Wages

ART. 110. Noninterference in Disposal of Wages. — No employer shall limit or otherwise interfere with the freedom of any employee to dispose of his wages. He shall not in any manner force, compel, or oblige his employees to purchase merchandise, commodities, or other property from the employer or from any other person or otherwise make use of any store or services of such employer or any other person.

ART. 111. Wage Deduction. No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees except:

- In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;
- In cases where the right of the worker or his union to check off has been recognized by the employer or authorized in writing by the individual worker concerned; and
- In cases where the employer is authorized by law or regulations issued by the Secretary of Labor.

ART. 112. Deposits for Loss or Damage. — No employer shall require his worker to make deposits from which deductions shall be made for the reimbursement of loss of or damage to tools, materials, or equipment supplied by the employer, except when the employer is engaged in such trades, occupations or businesses where the practice of making deductions or requiring deposits is a recognized one, or is necessary or desirable as determined by the Secretary of Labor in appropriate rules and regulations.

ART. 113. Limitations. — No deduction from the deposits of an employee for the actual amount of the loss or damage shall be made unless the employee has been heard thereon, and his responsibility has been clearly shown.

ART. 114. Withholding of Wages and Kickbacks Prohibited. — It shall be unlawful for any person, directly or indirectly, to withhold any amount from the wages of a worker or induce him to give up any part of his wages by force, stealth, intimidation, threat or dismissal or by any other means whatsoever without the worker's consent.

ART. 115. Deduction to Ensure Employment. — It shall be unlawful to make any deduction from the wages of any employee for the benefit of the employer or his representative or intermediary as consideration of a promise of employment or retention in employment.

ART. 116. Retaliatory Measures. — It shall be unlawful for an employer to refuse to pay, reduce the wages, discharge or in any manner discriminate against any employee who has filed any complaint or instituted any proceeding under this Title.

ART. 117. 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.

Chapter V

Wage Studies, Wage Agreements and Wage Determination

ART. 118. Wage Studies — (a) The Wage Commission in the Department of Labor shall conduct a continuing study of wage rates in the various agricultural and non-agricultural industries all over the country for the purpose of ascertaining whether a substantial number of employees in a given industry are receiving wages which, although complying with the minimum provided for in this Title, are less than sufficient to maintain them in health, efficiency and general well-being, taking into account the peculiar circumstances of the industry and its geographical location, among others. If after such study or studies the Commission is of the opinion that such number of employees are receiving such wages, it shall, subject to the approval of the Secretary of Labor, proceed to determine the same after notice and hearing.

ART. 119. Wage Recommendations. — The Commission shall have 60 days within which to conduct hearings and recommend to the Secretary of Labor the issuance of a wage order establishing the minimum wage or wages to be paid by employers in the industry or the various branches thereof.

ART. 120. Wage Order. — Upon submission of the Commission recommendation, the Secretary of Labor shall give notice to interested parties and conduct a public hearing thereon within 15 days. On the basis of the Commission recommendation and of the results of the public hearing, the Secretary of Labor shall, within 15 days after the termination of the hearing, approve or reject but shall not modify the minimum wages recommended by the Commission. If he rejects the recommendation, he shall issue a statement of his reasons therefor and shall direct the Commission to consider the same immediately. If he approves the recommendation of the Commission, original or modified, he shall immediately issue a wage order, subject to the approval of the President of the Philippines, prescribing the minimum wage to be paid to the employees in the industry.

ART. 121. Criteria for Minimum Wage Fixing. — A minimum wage to be established by the Commission 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 within the framework of the national economic and social development program. In the determination of a minimum wage, the Commission shall, among other relevant factors, consider the following:

- Cost of living;
- Comparable wages and other incomes in the economy;
- Fair return of the capital invested; and
- The imperatives of economic and social development.

The wages established in accordance with the provisions of this Title shall not be the standard prevailing minimum wages in the industry on the effective date of this Code and in no case less than the minimum wage rates set forth in Chapter II of this Title. These wages may include wages varying with localities if in the judgment of the Commission and the Secretary of Labor conditions make such local differentiation proper and necessary to effectuate the purposes of this Title.

ART. 122. Effectivity of the Wage Order. — A Wage Order shall take effect 15 days after publication in at least one (1) newspaper of general circulation and by such other means as the Secretary of Labor deems reasonably

calculated to give the interested parties general notice of such issuance. From the date of the effectivity of a Wage Order, no employee who is within the scope of such order shall be paid wages below the rate fixed therein.

Only the Wage Order itself shall be published.

ART. 123. Freedom to Bargain. — No Wage Order shall be construed to prevent workers in particular firms or enterprises of industries from bargaining for higher wages with their respective employers.

ART. 124. Prohibition Against Injunction. — No injunction may be issued by any court to restrain any proceeding of or before the Wage Commission or the Secretary of Labor except on the basis of question of law by the Supreme Court on certiorari.

ART. 125. Power of the Commission. — In conducting a continuing study of wage rates and other economic conditions in any industry or branches thereof, the Commission may call upon the assistance and cooperation of any regional, provincial and local government agency and may call interested parties to furnish information in aid of its deliberations.

Chapter VI

Administration and Enforcement

ART. 126. Visitorial Powers. — The Secretary of Labor or his duly authorized representatives, including, but not restricted to, the labor inspectorate, shall have access to employers' 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 in aid in the enforcement of this Title and of any wage order or regulation issued pursuant to this Code.

ART. 127. Recovery of Wages. — Upon application of any interested party, the Bureau of Labor Relations or any regional office of the Department of Labor may certify to the National Labor Relations Commission established under this Code any matter involving the recovery of wages and other benefits owing to an employee under this Code, with legal interest. Any sum thus recovered on behalf of an employee pursuant to this Article shall be held in a special deposit account by and shall be paid, on order of the Secretary of Labor, directly to the employee concerned. Any such sum not paid to the employee because he cannot be located within a period of two (2) years shall be held as a special fund of the Department of Labor to be used exclusively in the administration and enforcement of labor laws.

The Secretary of Labor or his duly authorized representative may supervise the payment of unpaid wages and other benefits found owing to any employee under this Code.

Title III

WORKING CONDITIONS FOR SPECIAL GROUPS OF EMPLOYEES

Chapter I

Employment of Women

ART. 128. Night Work Prohibition. — No woman, regardless of age, shall be employed or permitted or suffered to work, with or without compensation:

- In any industrial undertaking or branch thereof between ten o'clock at night and six o'clock in the morning of the following day; or

- In any commercial or non-industrial undertaking or branch thereof, other than agricultural, between midnight and six o'clock in the morning of the following day; or
- In any agricultural undertaking at nighttime unless she is given a period of rest of not less than nine (9) consecutive hours.

ART. 129. Exceptions. — The prohibitions prescribed by the preceding Article shall not apply in any of the following cases:

- In cases of actual or impending emergencies caused by serious accident, fire, flood, typhoon, earthquake, epidemic or other disasters or calamity, to prevent loss of life or property, or in cases of force majeure or imminent danger to public safety;
- In case of urgent work to be performed on machineries, equipment or installation, to avoid serious loss which the employer would otherwise suffer;
- Where the work is necessary to prevent serious loss of perishable goods;
- Where the woman employee holds a responsible position of managerial or technical nature, or where the woman employee has been engaged to provide health and welfare services;
- Where the nature of the work requires the manual skill and dexterity of women workers and the same cannot be performed with equal efficiency by male workers;
- Where the women employees are immediate members of the family operating the establishment or undertaking; and
- Under other analogous cases exempted by the Secretary of Labor in appropriate regulations.

ART. 130. Facilities for Women. — The Secretary of Labor shall establish standards that will insure the safety and health of women employees. In appropriate cases, he shall by regulations require any employer to:

- 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;
- Establish separate toilet rooms and lavatories for men and women and provide at least a dressing room for women;
- Establish a nursery in a workplace for the benefit of the women employees therein; and
- Determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.

ART. 131. 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 (2) 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.

ART. 132. Family Planning Services; Incentives for Family Planning. —

- 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 limited to, the application or use of contraceptive pills and intrauterine devices.

- In coordination with other agencies of the Government engaged in the promotion of family planning, the Department of Labor shall develop and prescribe incentive bonus schemes to encourage family planning among female workers in any establishment or enterprise.

ART. 133. Discrimination Prohibited. — No employer shall discriminate against any woman with respect to terms and conditions of employment on account of her sex. Equal remuneration shall be paid to both men and women for work of equal value.

ART. 134. Stipulation Against Marriage. — It shall be unlawful for an employer to require as a condition of employment or continuation of employment that a woman employee shall not get married, or to stipulate expressly or tacitly that upon getting married a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.

ART. 135. Prohibited Acts. — (a) It shall be unlawful for any employer:

- To deny any woman employee the benefits provided for in this Chapter or to discharge any woman employed by him for the purpose of preventing her from enjoying any of the benefits provided for under this Code;

- To discharge such woman on account of her pregnancy, or while on leave or in confinement due to her pregnancy; or

- To discharge or refuse the admission of such woman upon returning to her work for fear that she may again be pregnant.

ART. 136. Classification of Certain Women Workers. — Any woman who is permitted or suffered to work, for a substantial period of time under the effective control or supervision of the employer, with or without compensation, in any night club, cocktail lounge, bar, massage clinic, or any similar place, shall be considered as an employee of such establishment for purposes of existing labor and social legislations.

Chapter 11

Employment of Minors

ART. 137. Minimum Employable Age. — No child below fourteen (14) years of age shall be employed by an employer, except where the child works directly under the sole responsibility of his parent or guardian, involving activities which are not hazardous in nature and which do not in any way interfere with his schooling.

ART. 138. Age Eligibility for Employment. — Any person between fourteen (14) and eighteen (18) years of age may be employed in any non-hazardous undertaking for such number of hours and during certain periods of the day as determined by the Secretary of Labor in appropriate regulations. The employer shall not discriminate against any such person in respect to terms and conditions of employment on account of his age.

Chapter III

Employment of Househelpers

ART. 139. Coverage. - This Chapter shall apply to all persons rendering services in the households for a compensation, except those who do not live therein but return to their own houses after their work.

"Domestic or household service" shall mean such service in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and include ministering to the personal comfort and convenience of the members of the employer's household, including services of family drivers.

ART. 140. Contract of Domestic Service. — The original contract of domestic service shall not last for more than two (2) years but it may be renewed for such periods as may be agreed upon by the parties.

ART. 141. Minimum Wage. — (a) Househelpers shall be paid the following minimum wage rates:

- Sixty pesos (P60) a month for househelpers in Manila, Quezon, Pasay and Caloocan cities and the municipalities of Makati, San Juan, Mandaluyong, Muntinglupa, Navotas, Malabon, Paranaque, Las Pinas, Pasig and Marikina in Rizal Province;

- Forty-five pesos (P45) a month for those in other chartered cities and first class municipalities;

- Thirty pesos (P30) a month for those in other municipalities.

ART. 142. Minimum Cash Wage. —The minimum wage rates prescribed under this Chapter shall be the basic cash wages which shall be paid to the househelper in addition to lodging, food and medical attendance.

ART. 143. Assignment to Non-Household Work. — No househelper shall be assigned to work in a commercial, industrial or agricultural enterprise at a wage or salary rate lower than that provided for agricultural or nonagricultural worker as prescribed herein.

ART. 144. Opportunity for Education. — If the househelper is under the age of eighteen (18) years, the employer shall give him or her an opportunity for at least elementary education. The cost of such education shall be part of the househelper compensation, unless there is a stipulation to the contrary.

ART. 145. Treatment of Househelpers. — The employer shall treat the househelper in a just and humane manner. In no case shall physical violence be used upon the househelper.

ART. 146. Board, Lodging and Medical Attendance. — The employer shall furnish the househelper free of charge suitable and sanitary living quarters as well as adequate food and medical attendance.

ART. 147. Indemnity for Unjust Termination of Services. — If the period of household service is fixed, neither the employer nor the househelper may terminate the contract before the expiration of the term, except for a just cause. If the househelper is unjustly dismissed, he or she shall be paid the compensation already earned plus that for fifteen (15) days by way of indemnity.

If the househelper leaves without justifiable reason, he or she shall forfeit any unpaid salary due him or her not exceeding fifteen (15) days.

ART. 148. Rules on Services of Termination Notice. — If the duration of the household service is not determined either by stipulation or by the nature of the service, the employer or the househelper may give notice to put an end to the relationship five (5) days before the intended termination of the service.

ART. 149. Employment Certification. —Upon the severance of the household service relation, the employer shall give the househelper a written statement of the nature and duration of the service and his or her efficiency and conduct as househelper.

ART. 150. Employment Records. — The employer may keep such records as he may deem necessary to reflect the actual terms and conditions of employment of his househelper which the latter shall authenticate by signature or thumbmark upon request of the employer.

Chapter IV

Employment of Homeworkers

ART. 151. Regulation of Industrial Homework. — The employment of industrial homeworkers and field personnel shall be regulated by the Government through appropriate regulations issued by the Secretary of Labor to ensure the general welfare and protection of homeworkers and field personnel and the industries employing them.

ART. 152. Regulations of Secretary of Labor. — The regulations or orders to be issued pursuant to this Chapter shall be designed to assure the average employee of an undertaking the minimum terms and conditions of employment applicable to the industrial homeworkers or field personnel involved.

ART. 153. Distribution of Homework. — For the purposes of this Chapter, the "employer" of homeworkers includes any person, natural or artificial, who for his account or benefit, or on behalf of any person residing outside the country, directly or indirectly, or through any employee, agent, contractor, subcontractor or any other person:

- Delivers, or causes 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 his directions; or
- Sells any goods, articles or materials for the purpose of having the same processed or fabricated in or about a home and then rebuys them after such processing or fabrication, either himself or through some other person.

BOOK IV

HEALTH, SAFETY AND SOCIAL WELFARE BENEFITS

Title I

MEDICAL, DENTAL AND OCCUPATIONAL SAFETY

Chapter I

Medical and Dental Services

ART. 154. First-Aid Treatment. — Every employer shall keep in his 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 shall prescribe.

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

ART. 155. Emergency Medical and Dental Services. — It shall be the duty of any employer to furnish his employees in any locality with free medical and dental attendance and facilities consisting of:

- The services of a properly trained first-aider when the number of employees does not exceed two hundred (200) except when the employer maintains hazardous workplaces, in which case the services of a registered nurse or full-time graduate first-aider shall be provided for the protection of the workers; the Secretary of Labor shall determine by appropriate orders hazardous workplaces for purposes of this Article;

- 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
- The services of a full-time physician and dentist, 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 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 may prescribe to insure immediate availability of medical and dental treatment and attendance in cases of emergency.

ART. 156. 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 establishment and he makes arrangements for the reservation therein of the necessary beds and dental facilities for the use of his employees.

ART. 157. Health Program. — The physician engaged by an employer shall, in addition to his duties under this Chapter, develop and implement a comprehensive occupational health program for the benefit of the employees of his employer.

ART. 158. 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, in consultation with industrial, medical, and occupational safety and health associations, shall establish the qualifications, criteria and conditions of employment of such health personnel.

ART. 159. Assistance of Employer. — It shall be the duty of any employer to provide all the necessary assistance to ensure the adequate and immediate medical and dental attendance and treatment to an injured or sick employee in case of emergency.

Chapter II

Occupational Health and Safety

ART. 160. Safety and Health Standards. — The Secretary of Labor 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.

ART. 161. Research. — It shall be the responsibility of the Department of Labor 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 employee will suffer impairment or diminution in health, functional capacity, or life expectancy as a result of his work and working conditions.

ART. 162. Training Programs. — The Department of Labor shall develop and implement training programs to increase the number and competence of personnel in the field of occupational safety and industrial health.

ART. 163. Administration of Safety and Health Laws. — The Department of Labor shall be solely responsible for

the administration and enforcement of occupational safety and health laws 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 and subject to national standards established by the latter.

Title II

EMPLOYEES COMPENSATION AND STATE INSURANCE FUND

Chapter I

Policy, Definitions, and Coverage

ART. 164. Policy. - The State shall provide an employees compensation program whereby workers or their dependents, in the event of work-connected injuries or death, may promptly secure adequate financial, medical and related benefits.

ART. 165. Definitions of Terms. — As used in this Title, unless the context otherwise requires:

- "Appliance" means crutches, artificial members and other similar devices and their replacement or repair;
- "Commission" means the Employees Compensation Commission created under this Title;
- "Compensation" means all payments made under the provisions of this Title representing the sum of income benefits and medical and related benefits;
- "Contractor" means a person who contracts with another to have work performed of a kind which is a regular or recurrent part of the trade, business, occupation, or profession of such person;
- "Death" means loss of life resulting from an injury;
- "Disability" means loss or impairment of a physical or mental function;
- "GSIS" means the Government Service Insurance System created under Commonwealth Act Numbered One Hundred Eighty-six, as amended;
- "Income benefits" means payments made under the provisions of this Title to the injured employee, or to his dependents in case of death, other than medical and related benefits;
- "Injury" means any harmful change in the human organism arising out of and in the course of employment, or damage to or loss of prosthetic appliance, but does not include any communicable disease unless it is proven by the employee that the risk of contracting such disease is increased by the nature or conditions of employment;
- "Medical and related benefits" means payments made for medical, rehabilitation, hospital, burial and other services and supplies provided for in this Title other than income benefits, but including reasonable travel expenses between the employee's residence and the place of treatment or rehabilitation, as well as reasonable board and lodging expenses;
- "Person" includes any individual, partnership, firm, association, trust, corporation or legal representative thereof;
- "SSS" means the Social Security System created under Republic Act Numbered One Thousand One Hundred Sixty-one, as amended;
- "State Insurance Fund" means all premiums, monies, revenues, penalties and all other collections under this

Title;

- "Subcontractor" means the other person with whom the contractor subcontracts all or parts of a contract;
- "Supplies" means medicine and other medical, dental and surgical supplies;
- "System" means the SSS or the GSIS, as the case may be; and
- "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar supplements or facilities furnished by the employer.

ART. 166. Definitions Relating to Family Relationships. — As used in this Title:

- "Actually Dependent" means dependent in fact upon the employee for his substantial support and whose dependency is not attributable to his fault or neglect in not securing suitable employment. When used as a noun, the word "dependent" means any person entitled to death benefits;
- "Brother" or "sister" means an unmarried brother or sister under 18 years of age or over but physically or mentally incapable of self-support, and actually dependent in fact upon the employee for support. The terms "brothers" and "sisters" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption;
- "Child" means an unmarried child under 18 years of age, or an unmarried child between the ages of 18 and 21, but who is continuing his studies, or an unmarried child who is physically or mentally incapable of self-support. The term "child" includes a posthumous child, a child legally adopted, an actually dependent stepchild or an actually dependent acknowledged illegitimate child;
- "Grandchild" means an unmarried offspring of the employee's child who is under 18 years of age or over 18 years of age but physically or mentally incapable of self-support, and actually dependent upon the employee for support. "Grandchild" includes the child of an adopted child but not the child of a stepchild, the stepchild of a child, the stepchild of a stepchild, and the stepchild of an adopted stepchild;
- "Grandparent" means a parent of a parent, even by adoption, who is actually dependent in fact upon the employee for support, but does not include a parent of a stepparent, a stepparent of a parent, or a stepparent of a stepparent;
- "Parent" means mother or father, stepparent or parent by adoption, who is actually dependent in fact upon the employee for support;
- "Wife" or "widow" means the employee's lawful wife living with or actually dependent upon him at the time of his injury or death, or living apart from the employee for any cause not due to her fault; and
- "Widower" means the deceased employee's lawful husband living with and actually dependent upon her.

ART. 167. Limitation of Liability for Compensation. —The State Insurance Fund shall be liable for compensation for injury or death to the employee except where the same was occasioned solely by the employee's intoxication, by his willful intention to injure or kill himself or another, or by his notorious negligence:

ART. 168. Compulsory Coverage of Employers. — "Employer" under this Title shall include:

- Every person having one or more employees; and
- The National Government and its political subdivisions and instrumentalities, including government-owned and -controlled corporations.

ART. 169. Coverage of Employees. — "Employee" under this Title shall include:

- Every person in the service of an employer under any contract of hire or apprenticeship, express or implied; and
- Every person performing service in the course of the trade, business, profession or occupation of an employer at the time of the injury, provided such person in relation to this service does not maintain a separate business and is not himself an employer, subject to the provisions of this Title.

ART. 170. Exemptions. — The following employees are exempt from the coverage of this Title:

- Any person whose employment is purely casual and is not for the purposes of the occupation or business of the employer;
- Any person employed as a domestic helper;
- Any immediate member of the family of the employer who lives with him; and
- Any elective public official.

ART. 171. Foreign Employment. — The Commission shall ensure adequate coverage and protection of Filipino workers employed abroad, subject to such rules and regulations as it may promulgate.

ART. 172. Registration. — Every employer covered under Article 168 of this Title shall register with the SSS or the GSIS, as the case may be, in accordance with such procedures as the SSS or the GSIS may prescribe.

ART. 173. Exclusiveness of Liability. — Unless otherwise provided by law, the liability of the System under this Title shall be exclusive and in place of all other liabilities of the employer to the employee, his legal representative, dependents or nearest of kin or anyone otherwise entitled to receive damages under the Civil Code on account of such injury or death.

In the case of government employees, the right to compensation under this Title shall be a bar to the recovery of benefits for the same injuries or death provided for in Section 699 of the Revised Administrative Code, as amended, and other existing laws, except those granted by the Government Service Insurance System.

ART. 174. Liability of Third Parties. — (a) In case the injury or death for which compensation is due under this Title is caused by circumstances creating a legal liability in some person other than the employer, it shall be optional for the injured employee or his dependent either to claim compensation from the System under this Title or to sue such other person for damages in accordance with law.

- In case compensation is claimed and allowed in accordance with this Title, the System shall be subrogated to the rights of the injured employee or his dependents in accordance with the general law.

- Where the System recovers from such third person damages in excess of those paid or allowed under this Title, such excess shall be delivered to the injured employee or another person entitled thereto, after deduction of the expenses of the System and the cost of the proceedings. The sum paid by the System for compensation or the amount of compensation to which the employee or his dependents are entitled under the provisions of this Title shall be admissible as evidence in any damage suit or action.

ART. 175. Deprivation of Benefits. — No contract, rule, regulation or device whatsoever shall operate to diminish or deprive the employee or his dependents of benefits granted under this Title.

Chapter II

Administration of the Fund

ART. 176. State Insurance Fund. — The compensation and other related benefits and services herein provided shall be paid from a State Insurance Fund which is hereby established in the SSS and the GSIS.

ART. 177. Employees Compensation Commission. —The Employees Compensation Commission shall be composed of the Secretary of Labor as ex officio Chairman with the following as members: The Administrator of the SSS, the General Manager of the GSIS, 2 members representing the employees and 2 members representing the employers. The last four (4) members of the Commission shall be appointed by the President of the Philippines for a term of six (6) years. The first two (2) appointive members shall be appointed for three (3) years, and the other two for six (6) years, respectively. All vacancies, except through the expiration of the terms, shall be filled for the unexpired term only. The members of the Commission shall receive a per diem of one hundred pesos (P100) for each meeting actually attended exclusive of actual, ordinary and necessary travel expenses chargeable to the State Insurance Fund. Members of the Commission who are government officials shall serve without additional compensation but may be allowed actual, ordinary and necessary travel expenses.

In the absence of the Secretary of Labor, the Undersecretary or any member of the Commission designated by him shall act as Chairman. In his absence, the Administrator of the SSS or the General Manager of the GSIS may designate his representative to act in his behalf.

ART. 178. Powers and Duties. — The Commission shall:

- Assess and fix a rate of premium from all employers covered under Article 168 of this Title;
- Determine, under such rules and regulations as it may promulgate, the rate of premium payable by an employer whose records show a high frequency of work accidents or occupational diseases in the preceding year due to failure by the said employer to observe adequate safety measures;
- Promulgate rules and regulations governing the processing of claims and the settlement of disputes arising therefrom;
- Authorize the GSIS and the SSS to conduct actuarial and financial studies of the State Insurance Fund. The initial study concerned particularly with the granting of constant help and of pension benefits for permanent total disability, permanent partial disability, death, and the integration of the benefits under this Title with other benefits administered by the SSS and the GSIS, shall be made as soon as feasible, but not later than 1975; (e) Appoint and maintain through the Chairman, subject to existing Civil Service Law and rules, the personnel of its staff;
- Prepare the annual budget of the Employees Compensation Commission chargeable against the State Insurance Fund;
- Authorize the SSS and the GSIS to prepare their respective annual budgets for the operational expenses or administration of the State Insurance Fund: Provided, That the said budget, together with that of the Employees Compensation Commission, is not less than 7% nor more than 12% of the premiums and all income therefrom collected by them, respectively, without prejudice, however, to change in the minimum herein allowed as may be actuarially warranted;
- Perform such other functions and exercise such other authority as may be necessary to attain the purposes and objectives for which the Commission is organized; and
- Have the power to administer oath and affirmation, and to issue subpoena and subpoena duces tecum in connection with any question or issue arising under this Title.

ART. 179. Review. — Actions of the Commission under paragraphs (a), (b) and (c) of the preceding Article may

be reviewed on certiorari upon petition of an aggrieved party by (he Supreme Court only on questions of law within ten (10) days from notice thereof.

ART. 180. Enforcement of Decisions. — Any decision, order, or resolution of the Employees Compensation Commission shall become final and executory within ten (10) days from notice thereof if no appeal is taken therefrom, and all monetary awards involved in cases appealed from decisions of the System shall be paid by the System within fifteen (15) days from receipt of notice.

In all other cases, decisions, orders, and resolutions of the Employees Compensation Commission which have become final and executory shall be enforced and executed in the same manner as decisions of the Court of First Instance, and the Commission shall have the power to issue to the City or Provincial Sheriff or to the Sheriff whom it may appoint such writs of execution as may be necessary for the enforcement of such decisions, orders or resolutions and any person who shall fail or refuse to comply therewith shall, upon application by the Commission, be punished by the proper court for contempt.

ART. 181. Secretariat. — There shall be created a Secretariat in the Commission to be headed by a chief executive officer who shall be appointed by the President of the Philippines, subject to Civil Service Law and rules. He shall have previous experience in technical and administrative fields related to the purposes of this Title. His salary shall be fixed by the Commission payable from the State Insurance Fund.

Chapter III

Premiums

ART. 182. Assessment of Premium Rates of Employers. — The Employees Compensation Commission shall assess and fix a rate of premium from all employers covered under Article 168 of this Title. The rate of premiums shall be reviewed periodically and may be revised as the underwriting experience, hazard risk, loss experience, legitimate claims, cost of administration, including anticipated as well as unexpected losses, may require.

ART. 183. Premiums from Private Employers. — The SSS shall collect from every employer under Article 168(a) of this Title premiums in accordance with rates prescribed in the next preceding Article.

ART. 184. Premiums from Public Agencies. — In the case of the National Government and its political subdivisions and instrumentalities, as well as government-owned and/or controlled corporations, the premiums shall be determined by the Commission, taking into account actuarial studies, to be collected by the GSIS. Any deficiency shall be met with supplemental appropriations.

ART. 185. Payments. — The initial payment of premiums shall be made within thirty (30) days from the effectivity of this Code. Thereafter, remittance of premiums shall be made within such time and in such manner as may be prescribed by the GSIS or SSS.

Premiums under this Title shall be paid in their entirety by the employer and any contract or device for the deduction of any portion thereof from the wages of the employees or laborers shall be null and void.

ART. 186. Effect of Nonpayment. — Any employer who defaults in the payment of such premium after they become due and payable shall, in addition thereto, be liable to a surcharge of three percent (3%) thereon for every month of default, both of which may be collected pursuant to distraint issued by the Commission, the SSS or the GSIS. The defaulting employee shall be solely liable to the System during the entire period of default for payment of compensation and related benefits which may have been paid by the System to his employees or their dependents, and any and all premiums, compensation and related benefits and other expenses to which such employer is liable shall constitute a lien on all his property, real and personal, which is hereby declared to be

preferred to any credit except taxes. Failure or refusal of the employer to pay or remit the premiums herein prescribed shall not prejudice the right of the employee or his dependents to the benefits under this Title.

ART. 187. Administration and Disbursement of Funds. — All revenues of the State Insurance Fund shall be kept separate and distinct from all other funds, and shall be administered and disbursed in the same manner and under the same conditions, requirements and safeguards as provided by Republic Act Numbered One Thousand One Hundred Sixty-one, as amended, and Commonwealth Act Numbered One Hundred Eighty-six, as amended, with regard to such other funds as are thereunder being paid to and/or collected by the SSS and the GSIS, respectively: Provided, That they conform with the policies, rules and regulations, decisions, orders and resolutions of the Employees Compensation Commission.

All revenues of the State Insurance Fund and of the SSS and the GSIS, as the case may be, as are not needed to meet the current administrative and operational expenses under this Title shall be accumulated in a fund to be known as "Reserve Fund" which shall be used exclusively for the payment of all benefits, medical, rehabilitation and burial services under this Title, and no amount thereof shall be withdrawn or used for any other purpose. All amounts accruing to the Reserve Fund shall be deposited with any authorized depository banks approved by the Commission, or invested in high interest securities that will mature within one (1) year.

Chapter IV

Medical, Rehabilitation and Burial Services

ART. 188. Medical Services, Appliances and Supplies. — Immediately after an employee has suffered an injury and during the subsequent period of disability the System shall provide the employee with such medical services, appliances and supplies as the nature of his disability and the process of his recovery may require.

ART. 189. System Not Liable for Improper Selection by Employee. — The System shall not be responsible for the changes made by the employee without the approval of the System in medical services, appliances and supplies or any physician furnished or selected by the System nor for compensation for any aggravation of the employee's injury attributable to such unauthorized changes.

ART. 190. Attending Physicians Subject to Rules and Regulations. — All physicians attending injured employees shall comply with all the rules and regulations adopted by the System and shall make reports in forms prescribed by the System at such time as may be required concerning the condition or treatment of any injured employee. All medical information relevant to the particular injury shall, on demand, be made available to the employee and the System. No information developed in connection with treatment or examination for which compensation is sought shall be considered as privileged communication.

ART. 191. Refusal to Submit to Examination or Treatment. — If the employee unreasonably refuses to submit to medical examination or treatment, the System shall suspend the payment of further compensation and his right to further proceedings 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 service furnished or to be furnished and shall have the authority to order a change of physician, hospital or rehabilitation facility when in its judgment such a change is desirable or necessary.

ART. 192. Fees for Medical Services. — All fees and other charges for such medical services shall not be higher than those prevailing in the community for similar services to injured persons in general and shall be subject to regulation by the System.

ART. 193. Rehabilitation Program. — The System shall establish a continuing program for the rehabilitation of

injured employees.

ART. 194. Rehabilitation Services. — An employee who has suffered an injury covered by this Title shall be entitled to prompt medical rehabilitation services. When, as a result of the injury, he is unable to perform work for which he has had previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining, as may be reasonably necessary to restore him to suitable employment.

ART. 195. Reasonable Cost of Board, Lodging or Travel to be Paid by the System. — Where rehabilitation requires residence at or near the facility or institution away from the employee's customary residence, reasonable cost of his board, lodging or travel shall be paid by the System.

ART. 196. Refusal to Accept Rehabilitation Pursuant to Order. — Refusal to accept rehabilitation pursuant to an order of the System or Commission shall result in loss of the right to such service.

ART. 197. Occupational Diseases and Periodic Medical Examinations. — The Commission may by regulation provide for a schedule of occupational diseases which are peculiar to or characteristic of particular processes, trades, or occupations.

For this purpose, it may require pre-employment examination and periodic medical examination during employment for the early detection of occupational hazards and diseases, and to take such other measures as may be necessary.

ART. 198. Burial Expenses, - If death results from an injury covered by this Title, the System shall pay an amount of five hundred pesos (P500) as burial expenses to any person who incurred such expenses or has liability therefor. However, the GSIS or SSS shall deduct this amount from the funeral expense benefit it grants to its members.

Chapter V

Disability Benefits

ART. 199. Temporary Total Disability. — In case the injury causes temporary total disability for labor, the System shall, during such disability(pay the injured employee a weekly income benefit equivalent to sixty percent (60%) of his average weekly wage for a period not beyond two hundred eight (208) weeks but the total compensation shall not exceed twelve thousand pesos (P12,000).

His income benefit shall not be less than twenty-six pesos (726) per week, except where his average weekly wage is less than this amount, in which case the weekly compensation shall be the entire amount of such average weekly wage. No income benefit shall be allowed for the first three (3) calendar days of disability; but if the disability extends beyond that period, compensation shall be allowed from the date of disability. The day on which the injury occurred shall be included in computing this waiting period unless the employee has been paid full wages for that day.

ART. 200. Total and Permanent Disability. — In case the injury causes permanent total disability, the System shall pay the injured employee a weekly income benefit equal to sixty percent (60%) of his average weekly wage, but which shall not be less than twenty-six pesos (P26) in any case and shall not extend beyond two hundred sixty (260) weeks, but the total compensation shall not exceed twelve thousand pesos (P12,000). No award of total and permanent disability compensation shall take effect until after two (2) weeks have elapsed from the date of the injury.

In the case of the following injuries, the disability caused thereby shall be deemed total and permanent:

- The total and permanent loss of the sight of both eyes;
- The loss of both feet at or above the ankle;
- The loss of both hands at or above the wrist;
- The loss of one hand and one foot;
- An injury to the spine resulting in complete and permanent paralysis of both legs or both arms or one leg and one arm; and
- An injury to the brain resulting in incurable imbecility or insanity.

The enumeration above shall not be considered exclusive; but in case of illness, the permanent total disability must be certified by the medical officer of the System.

ART. 201. Permanent Partial Disability. — In case the injury causes permanent partial disability, the System shall pay the injured employee a weekly income benefit equal to fifty percent (50%) of his average weekly wage for the period designated in the following schedules:

- Thumb and fingers: For the loss of the thumb, forty (40) weeks;

For the loss of the first finger, commonly called the index finger, thirty (30) weeks;

For the loss of the second finger, twenty-five (25) weeks;

For the loss of the third finger, commonly called the little finger, ten (10) weeks;

For the loss of the first joint of the thumb or any other finger, one-half of the income benefit above specified for the loss of the thumb or finger.

The loss of more than one joint of the thumb or a finger shall be considered as loss of the entire thumb or finger. However, the sum paid for the loss of more than one finger shall in no case exceed the sum provided for in this list for the loss of a hand.

- Toes:

For the loss of a big toe, twenty-five (25) weeks;

For the loss of a toe other than the big toe, ten (10) weeks.

The loss of the first joint of any toe shall be considered equal to the loss of half of the toe and the income benefit shall be one-half of the sum specified for the loss of the toe. The loss of more than one joint of any toe shall be considered equal to the loss of the entire toe.

- Hand: For the loss of a hand, one hundred and sixty (160) weeks;
- Arm: For the loss of an arm, two hundred and eight (208) weeks;
- Foot: For the loss of a foot, one hundred and thirty (130) weeks;
- Leg: For the loss of a leg, one hundred and ninety (190) weeks;
- Eye: For the loss of an eye, one hundred (100) weeks;
- Ear:

For the complete and permanent loss of the sense of hearing in both ears, two hundred and eight (208) weeks;

For the complete and permanent loss of the sense of hearing in one ear, forty (40) weeks;

For the loss of both ears, eighty-four (84) weeks;

For the loss of one ear, forty (40) weeks;

- Loss of Use:

The permanent loss of the use of a hand, an arm, a foot, a leg, an eye, a thumb, a finger, a toe, or a joint shall be considered equivalent to and be compensated at the same rate as the loss of a hand, arm, foot, leg, eye, thumb, finger, toe or joint.

ART. 202. Partial Loss of Use of Member Named in Schedule. — In cases of a permanent partial disability due to the injury of any of the members specified in the next preceding Article, less than the total loss of the member or less than the total loss of its use, and in case the disability is not otherwise compensated in the next preceding Article, the income benefits shall be paid in the proportion prescribed in the next preceding Article for the total loss of the member or for total loss of use thereof, and for the period of time hereinafter specified.

The proportion which the permanent partial disability bears to the total disability of the same member, as specified in the schedule, shall be determined and the income benefit above prescribed shall be paid for a portion of the period above established for the total loss of the member or for the total loss of the use thereof, in accordance with the proportion which the disability bears to the total disability of the members.

ART. 203. Amputation. — Amputation between elbow and wrist shall be considered equivalent to the loss of a hand. Amputation between knee and ankle shall be considered loss of a foot. Amputation at or above the elbow shall be considered equivalent to the loss of an arm. Amputation at or above the knees shall be considered equivalent to the loss of a leg.

ART. 204. Disfigurement. — In case of an injury producing serious disfigurement of the face or hand, the System may, at the request of the interested party, determine and award such income benefits not exceeding twelve thousand pesos (P12,000), as may be fair and proper in view of the nature of the disfigurement. Disfigurement is separate from other permanent partial disability and includes scarring and other disfigurement consequences caused by medical, surgical and hospital treatment of the employee.

ART. 205. Other Cases. — In all cases of permanent partial disability, weekly income benefits shall be paid at the rate and subject to the limitations specified in this Chapter for a period which bears the same relation to a period named in Article 201 as the disability sustained bears to a comparable disability named in the said Article.

ART. 206. Unconditional Nature and Time of Commencement of Payment. — Income benefits for permanent partial disability shall be paid regardless of the earnings of the disabled employee subsequent to the injury. Payments shall not commence until after termination of any temporary total disability that may be caused by the injury.

ART. 207. Provisions Common to Temporary and Permanent Partial Disability; Maximum Benefits. — No awards for partial disability shall be made until after two (2) weeks from the date of the injury. Income benefits used under this Chapter shall not include the benefits provided for in the preceding Chapter: Provided, That the aggregate liability of the System for all types of disability benefits shall not exceed in any case the amount of twelve thousand pesos (P12,000).

Chapter VI

Death Benefits

ART. 208. Payment After Death. — If an employee entitled to weekly income benefits for disability dies from any cause, payment of any unpaid balance of such benefits to the extent that the System is liable therefor shall be made to his dependents, as follows:

- To the widow or widower, if there is no child under the age of 18 or incapable of self-support;
- If there are both such widow or widower and such child or children, one-half to the widow or widower and the other half to the child or children; or
- If there is no such widow or widower but such child or children, then to the child or children to be divided equally among them if more than one;
- If there is no such widow or widower or such child or children, but there is a parent, then to such parent, or if both parents are actually dependent, to both of them, to be divided equally between them; or if there are no such parents, but an actually dependent grandparent, then to such grandparent or if more than one, then to all of them to be divided equally among them;
- If there is no such widow, widower, child, parent or grandparent, but there is an actually dependent grandchild, brother or sister, then to such dependent, or if more than one, to all of them to be divided equally among them; and
- If there are no such dependents, the unpaid balance of the compensation shall revert to the State Insurance Fund.

ART. 209. Income Benefits for Death. — If the injury causes death, the System shall pay a weekly income benefit, but not to exceed two hundred sixty (260) weeks nor the total sum of twelve thousand pesos (P12,000) equivalent to the following percentages of the employee's average weekly wage as determined under Article 214 which shall be reckoned with at not more than P80 and the weekly income benefit shall not be less than twenty-six pesos (P26), to or for the corresponding persons in the order of priority and during the period specified below:

- To the widow or widower, where there are no children of the deceased as defined in Article 166, forty-five percent (45%) during widowhood or widowerhood.
- To the widow or widower in case there are not more than two children, fifty percent (50%), and if there are three or more, sixty percent (60%).

The compensation to the widow or widower shall be for the use or benefit of the widow or widower and for the children, and the Commission may, by regulation, adjust the compensation between them in the most equitable manner possible.

- If there is no widow or widower, but a dependent child, forty percent (40%), if there are two or more children, fifty percent (50%), which shall be divided equally among them.
- To a parent if actually dependent, forty percent (40%). If both parents are actually dependent, each shall be paid one-half of such income benefits.
- To the brothers, sisters, grandparents, and grandchildren if actually dependent, twenty-five percent (25%) to each such dependent. If there should be more than one of such dependents, forty percent (40%), which shall be distributed share and share alike among dependents.

ART. 210. Time of Determination of Relationship and Dependency. — All questions of relationship and dependency shall initially be determined as of the time of death for purposes of income benefits for death.

ART. 211. Status of Alien as Dependent. — An alien shall not be considered a dependent if he is not at the time of the employee's death a resident of the Philippines, and any dependent alien leaving the Philippines shall automatically forfeit his right to compensation under this Title.

ART. 212. Change in Dependents. — Upon the cessation of income benefits under the preceding Article to any

person, the income benefits of the remaining persons entitled to the same for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they alone had been entitled to income benefits at the time of the dependent's death.

ART. 213. Effect of Erroneous Payment. — If the System in good faith pays income benefits to a dependent who is inferior in right to another dependent or with whom another dependent is entitled to share, such payment shall discharge the System unless and until such other dependent notifies the System of his claim. In case the System is in doubt as to the respective rights of rival claimants, it shall institute the appropriate proceedings for determination of the proper beneficiary.

Chapter VII

Provisions Common to Income Benefits

ART. 214. Determination of Average Weekly Wage. — Except as otherwise provided in this Title, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute income benefits and shall be determined as follows:

- If at the time of the injury the wages are fixed by week, the amount so fixed shall be the average weekly wage.
- If at the time of the injury the wages are fixed by the month, the average weekly wage shall be the monthly wages so fixed multiplied by twelve and divided by fifty-two.
- If at the time of the injury the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two.
- If at the time of injury the wages are fixed by the day, hour or by the output of the employee, the average weekly wage shall be computed in such manner that it shall be the best computation that can be made of the weekly earnings of the employee during the twelve (12) weeks next preceding the injury; however, the weeks when he did not work shall be excluded in the computation.
- If on account of the shortness of the time during which the employee has been employed or the casual nature of terms of the employment it is not feasible to compute the average weekly wage on the basis of the injured employee's earnings from such employment, regard may be had to the average weekly wage which during the twelve (12) weeks preceding the injury was being earned by an employee in comparable employment.
- In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fifteenth of the total wages which the employee has earned from all occupations during the twelve (12) calendar months immediately preceding the injury.

ART. 215. Income Benefits Payable Despite Other Benefits. — Income benefits shall, with respect to any period of disability, be payable in accordance with this Title to an employee although he has received or is entitled to receive for such period any payment or allowance for holidays, vacation or sick leave, award or any benefit under a collective bargaining or other agreement.

ART. 216. Payment for Second Injuries. — (a) If an employee who has a permanent partial physical impairment suffers an injury which results in a permanent partial or permanent total disability materially and substantially greater than that which would have resulted from the subsequent injury alone, the System shall be liable fully under Chapter 5 of this Title, and shall pay to the injured employee income benefits equivalent to the actual disability sustained in the second injury.

- If the subsequent injury as set forth in the preceding paragraph results in death of the employee, the System shall

pay one hundred percent (100%) of the prescribed compensation.

ART. 217. Right to Additional Income Benefits. — In case the employee's injury or death was due to the failure of the employer to comply with any law, or fail to install and maintain safety appliances, or take other precautions for the prevention of injury, said employer shall pay to the employee or his dependents additional income benefits equal to twenty-five percent (25%) of those fixed by this Title.

Chapter VIII

Records, Reports, and Notices

ART. 218. Report of Death or Injury. — (a) Within five (5) days after the employer has notice or knowledge of the occurrence of a death or an injury in the employment resulting in absence of his employee from work for a day or more, the employer shall give written notice thereof under oath and on a form prescribed by the System to the nearest regional office of the SSS or the GSIS, as the case may be, or to the Commission setting forth (1) the name, address, and business of the employer; (2) the name, address, sex, age, occupation and wage of the employee; (3) the full circumstances as to the nature and cause of the injury or death; (4) the year, month, day and hour when, and the particular place where the injury occurred; and (5) such other information as the System may prescribe by regulation.

- Said report shall be accompanied by a sworn certificate of the company physician or other doctor as to the nature and cause' of the injury or death and its relation to the employment, if any. Such certificate shall be made on a form prescribed by the System.

- Should the employer give false information or withhold any material information already in his possession, or fail or refuse to give the notice herein required without justifiable cause, he shall be held liable for damages equivalent to fifty percent (50%) of the income benefits to which the employee is entitled, which shall accrue to the System.

- In case of payment of benefits upon any claim later determined to be fraudulent, the employer shall reimburse the System fifty percent (50%) of such benefits if the System was misled by any false information given by the employer.

ART. 219. Notice of Injury or Death. — Notice of injury or death shall be given to the employer and the System as soon as the employee or his dependents are informed of the nature of the injury and its relationship to the employment. No notice shall be required if injury or death is known to the employer or to his agents or representatives.

ART. 220. Form of Notice. — The notice of injury or death shall be sufficient if the same contains the name and address of the employee and of his employer and a statement of the time, place, nature and cause of the injury or death.

ART. 221. Delivery of Notice. — The notice of injury or death shall be by personal service or by registered mail. It shall be made by the employee or, in case of death, by any person claiming to be entitled to compensation for such death or by another person on his behalf.

ART. 222. Notice as Claim; Prescriptive Period. — The notice referred to in the three Articles immediately preceding shall operate as a claim for benefits under this Title. Except in cases where the notice is not required as stated in Article 219 the right to compensation and related benefits for injury or death shall be barred unless notice is given within two (2) years from occurrence of such injury or death.

ART. 223. Assignment of Rights. — No claim for compensation under this Title is transferable, and all

compensation or rights to compensation shall be exempt from any creditor's claim.

ART. 224. Application for Modification. — The System, upon its own initiative or upon application of any party in interest, may review for purposes of modification any previous award, finding or action within two (2) years after the date of the last payment or the furnishing of compensation, upon the following grounds:

- Clerical error or mistakes in mathematical calculations;
- Change in the nature or extent of the employee's injury, wage-earning capacity or status of the claimant; or
- Fraud.

Title III

MEDICARE

Chapter I

Preliminary Matters

ART. 225. Statement of Objectives. — The State shall gradually provide total medical service for the people by adopting and implementing a comprehensive and coordinated medical care program based on accepted concepts of health, namely:

- Total coverage of medical services according to the needs of patients;
- Coordination and cooperation in the use of all medical facilities of both the Government and. the private sector; and
- Preservation of the freedom of choice of physicians and hospitals and the family doctor-patient relationship.

ART. 226. Terms Defined. — For the purposes of the Title, the following terms shall, unless the context indicates otherwise, have the following meaning:

- SSS. — The Social Security System created under Republic Act Numbered One Thousand One Hundred Sixty-one, as amended.
- GSIS. — The Government Service Insurance System created under Commonwealth Act Numbered One Hundred Eighty-six, as amended.
- Employee. — Any person compulsorily covered by the SSS under Republic Act Numbered One Thousand One Hundred Sixty-one, as amended; or by the GSIS under Commonwealth Act Numbered One Hundred Eighty-six, as amended, except members of the Armed Forces of the Philippines.
- Employer. — The employer of the employee.
- Benefit. — The hospitalization, surgical and medical expense benefit provided for under this Title.
- Hospital. — Any hospital, Government or private, licensed with the Bureau of Medical Services.
- Medical Practitioner. — Any doctor of medicine duly licensed to practice in the Philippines and an active member of good standing of the Philippine Medical Association.
- Confinement. — Confinement in a hospital defined in paragraph (f) of this Article, due to sickness or bodily injury.

- Single Period of Confinement. — A continuous period of confinement or periods of confinement for the same or any related illness, injury or condition not separated from each other by more than nine (9) days,
- Commission. — Philippine Medical Care Commission created under Republic Act Numbered Six Thousand One Hundred Eleven.
- Service Beds.— Beds reserved for beneficiaries under Program II.
- Community Mutual Health Funds. — Funds accruing from the contributions of residents in each chartered city or municipality, plus the one hundred percent (100%) government counterpart funds.
- Administrator. — Refers to the Administrator of the Commission unless specified otherwise.

ART. 227. Purposes and Objectives. — The main purposes and objectives of this Title are:

- Extension of medical care to all residents in an evolutionary way within our economic means and ability as a nation; and
- To provide the people of the country practical means of helping themselves pay for adequate medicare.

ART. 228. Functions, Powers, and Duties of the Medical Care Commission.— To carry out the above purposes and objectives, the Philippine Medical Care Commission as now constituted, and referred to in this Title as the Commission, shall exercise the following functions and powers:

- To formulate policies, administer and implement the Medical Care Plan, hereinafter provided;
- To organize its offices, fix the compensation and appoint such personnel as may be deemed necessary in accordance with Civil Service Law, rules and regulations. The plantilla of the Commission shall be included in the Appropriations Act for the next fiscal year and yearly thereafter. The respective Community Health Funds of the provinces, cities and municipalities shall not be used for payment of salaries of the employees of the Commission;
- To establish the provincial, city, and municipal Medical Care Councils;
- To authorize actuarial studies for the purposes of determining and fixing, from time to time, the contributions necessary and the extent and scope of benefits of the beneficiaries of the Plan as its resources may permit in order to ensure adequate financing and disbursement of funds to all participants of the Plan;
- To set up the requisites and procedures for the registration of beneficiaries under this Title;
- To devise control measures to prevent abuses of the Plan;
- To provide them from its funds the necessary amount for the Provincial Medical Care Council, the City Medical Care Council and the Municipal Medical Care Council to carry out their respective functions under the Plan;
- To be empowered to withhold, withdraw or suspend medical care benefits from any one who refuses to pay his contribution as provided herein except in emergency cases;
- To promulgate such supplementary rules and regulations as may be necessary to implement the provisions of this Title;
- To submit to the Chief Executive and the National Assembly annually within the first ten (10) days of each regular session, a report covering its activities in the administration and enforcement of this Title during the preceding year; and

- Generally to exercise all powers necessary to attain the purposes and objectives for which the Commission is organized.

ART. 229. Board Meetings. — Regular meetings of the Commission shall be held once a week. Special meetings not to exceed four (4) sessions a month may be held at the discretion of the Chairman or at the written request of the majority of the members of the Commission. The presence of five (5) members of the Commission shall constitute a quorum. Members of the Commission who are government officials shall serve without additional compensation, but may be allowed traveling and other necessary expenses. Members who are not government officials shall receive a per diem of one hundred pesos (P100) for each session actually attended by them. The Commission shall fix the compensation of, and appoint its secretary

ART. 230. The Chairman of the Commission. — The Chairman shall be a reputable member of the medical profession with at least twelve (12) years of experience in medical practice and with proven executive ability in business or medical undertakings. He shall hold office on a full-time basis and shall receive a compensation of at least thirty thousand pesos (P30,000) per annum. He shall be entitled to commutable traveling and representation expenses not to exceed six thousand pesos (P6,000) per annum. He shall preside at all meetings of the Commission and shall exercise such other duties as will achieve the purposes and objectives of this Title.

ART. 231. Administrator of the Commission. — The Commission shall have under its general supervision an Administrator, who shall serve as its Chief Executive Officer. He shall hold office on a full-time basis for a term of six (6) years and may not be removed except for cause. The Administrator shall be a duly registered physician with at least ten (10) years experience in practice, who has proven executive ability and experience in business or medical undertakings. He shall be appointed by the President of the Philippines and shall receive a minimum compensation of P24,000 per annum and such other privileges as may be fixed by the Commission. All travel and other representation expenses shall not be more than six thousand pesos (P6,000) per annum. No other allowances and/or representation expenses under any denomination shall be allowed.

ART. 232. The Philippine Medical Care Plan. — The Philippine Medical Care Plan shall consist of two (2) basic programs, namely:

- Program I — For the members of the SSS and GSIS; and
- Program II — For those not covered in Program I.

Beneficiaries under Program I shall be entitled in subsequent sections of this Title.

The Commission shall, within one year after the effectivity of this Code, formulate an integrated program for the proper implementation of Program II as envisioned in this Title. Likewise, it shall, within the same period, recommend to the Legislature who shall be entitled to Medical Care benefits under Program II and the amount of contributions they shall make.

Chapter II

Program I

ART. 233. Medical Care for SSS and GSIS Members. — The SSS and the GSIS shall set up their respective medical care funds and shall administer the same in accordance with the following provisions of this Title and the policies and implementing rules and regulations promulgated by the Commission.

Within two (2) years from the approval of this Code, the SSS and the GSIS shall with the approval of the Commission, respectively, adopt a supplementary plan designated to take over the medical care needs of the legal dependents of their members from Program I for which the SSS and the GSIS may require additional premiums.

ART. 234. Compulsory Coverage. — Coverage under this Title shall be compulsory and automatic upon all employees defined under this Title. In the case of an employee who is both covered by the SSS and GSIS, only his employment with the latter shall be considered for purposes of his coverage.

ART. 235. Effect of Separation from Employment. — Subject to such rules, regulations and/or conditions as the SSS or GSIS may prescribe, an employee who is no longer obliged to contribute under Article 245 by separation from employment, may elect to continue paying contributions representing the contribution of the employer as well as that of the employee only within sixty (60) days following the date of such separation. An employee shall be entitled to the benefits under this Title if he has satisfied the contribution requirement specified in Article 244.

ART. 236. Hospitalization Expense Benefit. — Under such rules, regulations and/or conditions as the SSS and GSIS may prescribe, subject to the approval of the Commission, an employee who is confined in a hospital on account of sickness or bodily injury requiring hospitalization, shall be entitled to confinement not exceeding forty-five (45) days annually to:

- Room and board expense benefit for each day of confinement in a hospital not exceeding twelve pesos (P12) a day; and
- Special charge expense benefit for charges necessary for the care of the employee, such as laboratory examination fees, drugs, X-ray, operating room and the like, not to exceed one hundred fifty pesos (P150).

For drugs and medicines that may be essential under paragraph (b), the employee shall have the option to secure the same from either the hospital pharmacy wherein he is confined or from any retail drugstore of his own choice, subject only to the rules and regulations promulgated by the Commission.

ART. 237. Surgical Expense Benefit. — Under such rules, regulations and/or conditions as the SSS or GSIS may prescribe, subject to the approval of the Commission, an employee who shall have undergone surgical procedure in a hospital, shall be entitled to a surgical expense benefit as may be determined by the SSS or GSIS, as the case may be, taking into account the nature and complexity of the procedure. The amount of benefit shall not exceed fifty pesos (P50) for a minor operation, two hundred pesos (P200) for a medium operation and five hundred pesos (P500) for a major operation.

ART. 238. Medical Expense Benefit. — Under such rules, regulations and/or conditions as the SSS or the GSIS may prescribe, subject to the approval of the Commission, an employee who shall have received necessary professional medical treatment by a medical practitioner while confined shall be entitled to a medical expense benefit of P5.00 for each daily visit, but the maximum benefit shall not exceed one hundred pesos (P100) for a single period of confinement or for any one sickness or injury. In determining the compensable daily visit occasioned by any one sickness or injury not more than one visit for any one day shall be counted. Specialists who are properly certified by the Philippine Medical Association shall be entitled to collect ten pesos (P10.00) for each daily visit,

ART. 239. Free Choice of Hospital or Medical Practitioner. — Any employee who becomes sick or is injured shall be free to choose the hospital in which he will be confined and the medical practitioner by whom he will be treated.

ART. 240. Notification of Illness Confinement and Confinement Supervision. — When an employee becomes sick or is injured and confined in a hospital, his confinement as well as the nature of his sickness or injury shall be communicated by said hospital to the SSS or GSIS, as the case may be. The SSS or the GSIS may exercise supervision over the confined employee and, at its expense, require him to be examined by a medical practitioner of his choice.

ART. 241. Payment of Claims. - Benefits provided under this Title shall be payable directly to the hospital, the medical practitioner and the retail drugstore, if any, under such rules, regulations and/or conditions the SSS or GSIS may prescribe, subject to the approval of the Commission. When the charges and fees agreed upon between the employee and the hospital and/or medical practitioner are in excess of the amount of the benefits provided for under this Title such employee shall be liable only for the payment of that portion of such fees and charges as are in excess of the benefits payable under this Title.

ART. 242. Limitation on the Right to Benefits. - (a) No employee shall be entitled to the benefits herein granted unless he shall have paid at least three (3) monthly contributions during the last twelve (12) months prior to the first day of the single period of confinement. In case of sickness on which surgery may be deferred at the election of the employee in such cases as herniotomy, hemorrhoidectomy, tonsillectomy, adenotomy and the like, the required monthly contributions paid immediately prior to the operation shall be at least for twelve (12) consecutive monthly installments. Until such time that such an employee is entitled to the benefits under Program I, he shall be covered by Program II.

- When the SSS or GSIS, as the case may be, has not been duly notified by the hospital in the manner prescribed under Article 240 no claim for any of the benefits of the Title shall be paid to the hospital concerned and said hospital shall further pay to the medical practitioner damages equivalent to the benefits which said medical practitioner would have received had there been due notification. In no case may a claim for benefit filed after the lapse of sixty (60) days from the last day of confinement be paid.

- The SSS or GSIS may deny or reduce any benefits provided under Chapter 2 of this Title when an employee, hospital or medical practitioner, as the case may be:

- Fails without good cause or legal ground to comply with the advice of the medical practitioner with respect to hospitalization;

- Furnishes false or incorrect information concerning the matter;

- Is guilty during his confinement or illness of gross negligence with regard to his health;

- Refuses to be examined by or fails to comply with the advice of the medical practitioner appointed for supervision purposes by the SSS or GSIS; and

- Fails to comply with any provisions of this Chapter or rules and regulations of the SSS or GSIS required for entitlement to the benefits provided in this Title.

ART. 243. Exclusions. — The benefits granted under this Title shall not cover any expense for:

- Cosmetic surgery or treatment.

- Dental service except major dental surgery or operation which needs hospitalization.

- Optometric service or surgery. (d) Services related to the case of psychiatric illness or of diseases traceable to such illness.

ART. 244. Rates of Contributions. — For employees covered by the GSIS and the SSS, the initial monthly contributions shall be in accordance with the following schedule:

Monthly Salary
Wage or Earnings
Covered

Wage

Employer's
Contribution

Employee's
Contribution

Below

P 49.99

P 25.00

P0.30

P0.30

50.00 —

99.99

75.00

0.95

0.95

100.00 —

149.99

125.00

1.55

1.55

150.00 —

199.99

175.00

2.20

2.20

200.00 —

249.99

225.00

2.80

2.80

250.00 —

Over

300.00

3.75

3.75

ART. 245. Collections of Employee's and Employer's Contribution. — (a) Within such time and manner as the SSS or GSIS may prescribe the employer shall deduct and withhold from his employee's monthly compensation the employee's contribution; and

- Within such time and manner as the SSS or GSIS may prescribe, but not beyond twenty (20) days from the date due, the employer shall remit directly to the GSIS or SSS, as the case may be, his corresponding contributions together with the employee's contributions. No employer shall deduct, directly or indirectly, from the compensation of the covered employees or otherwise recover from them his own contributions in behalf of such employees. Failure of the employer to remit to the GSIS or SSS the corresponding employee's and employer's contributions shall not be a reason for depriving the employee of the benefits of this Title.

ART. 246. Health Insurance Fund. — The Health Insurance Funds of the SSS and the GSIS are hereby created which shall consist of all contributions and all accruals thereto and shall be kept separate and distinct from all other funds paid to and collected by said agencies to be utilized for the purpose of meeting claims for benefits under this Title.

ART. 247. Administration and Disbursement of Funds. — Subject to the next succeeding article, the Health Insurance Funds of the SSS or GSIS shall be administered and disbursed in the same manner and under the same conditions, requirements and safeguards as provided by Republic Act Numbered One Thousand One Hundred Sixty-one, as amended, and Commonwealth Act Numbered One Hundred Eighty-six, as amended, with regard to such other funds as are thereunder being paid to or collected by the SSS and the GSIS, respectively: Provided, That they conform with the policies, rules and regulations established by the Commission.

ART. 248. Deposit of Contributions. — All the contributions collected by and remitted to the GSIS and SSS under this Title shall, within thirty (30) days of receipt, be deposited in interest bearing government deposit banks doing business in the Philippines, having an unimpaired paid-up capital and surplus equivalent to one million five hundred thousand pesos (P1,500,000) or over.

ART. 249. Records and Reports. — The Philippine Medical Care Commission, the provincial, city and municipal Medical Care Councils, the SSS and the GSIS shall keep and cause to be kept records of the operation of their respective funds and of disbursement thereof, and all accounts or payments made out of said funds. They shall also cause to be kept such records as may be required for the purpose of making actuarial valuations including such data necessary in the computation of the rate of morbidity in the Philippines and any other information that may be useful for the adjustment of benefits.

Chapter III

Program II

ART. 250. Hospitalization, Out-Patient and Domiciliary Care. — Subject to the provisions of Article 236, for purposes of hospitalization under this Title, private hospitals and clinics duly licensed by the Bureau of Medical Services shall set aside at least twenty percent (20%) of their total bed capacity as service beds to be subsidized at the rate of P10.00 per bed per day to be paid by the month not later than the tenth day of the Following month, from any special fund appropriated for this purpose. Said service beds shall remain such only when payments of these monthly subsidies do not become delinquent for more than three (3) consecutive months.

Hospital loans shall be given priority by government financing institutions, especially in the rural areas where there are no existing government or private hospitals, at a maximum rate of six percent (6%) per annum on a long-term basis.

Until such time as the Commission can otherwise provide therefor the major aspect of out-patient and domiciliary care shall be carried out initially by existing government hospitals, rural health units, and other government clinics.

ART. 251, Registration and Contribution. - To be entitled to the benefits under this Title, and subject to the regulations and procedures for registration to be promulgated by the Commission, every resident shall be registered and issued a medical card upon payment to the respective provincial, city, or municipal treasurer concerned of the required yearly assessments to be fixed by the Commission. The yearly assessments shall be payable on or before January 20 of each year to be collected by the City or Municipal Treasurer concerned, and shall respectively be held by them in trust for the City Medical Care Council or the Municipal Medical Care Council, as agents of the latter.

ART. 252. Provincial Medical Care Council. - The Commission shall establish in each province a Provincial Medical Care Council of seven (7) members to be composed of:

- The Provincial Health Officer;
- The Provincial Governor;
- A representative of the Provincial Governor;
- The duly designated representative of the component society of the Philippine Medical Association;
- A representative of the Philippine Hospital Association from one of the private hospitals in the province, if any, preferably a chief of a hospital; and
- Two private citizens from the province, one of whom shall be a duly registered physician, to be appointed by the Commission.

The last four (4) mentioned members shall be appointed for a term of four (4) years each, arranged on a staggered basis so that only one is appointed annually, except the initial appointees who have terms of one, two, three, and four years, respectively.

The Council shall elect its Chairman and shall:

- Supervise the operation of the program on the municipal level;
- Insure homogenous distribution and maximum utilization of medical facilities within the province;

- Act as an adjudicators' body for the parties involved in claims for payment;
- Perform such other functions and duties as may be assigned to it by the Commission; and
- Hold in trust through the Provincial Treasurer, as member of the Provincial Medical Care Council, Community Mutual Health Funds of cities and municipalities as provided for under Article 251 (b).

ART. 253. City Medical Care Council. — The Commission shall establish in each chartered city a City Medical Care Council of seven (7) members, to be composed of:

- The City Health Officer;
- The City Treasurer;
- A representative of the Mayor;
- The duly designated representative or the component society of the Philippine Medical Association;
- A representative to be appointed by the Commission upon recommendation of the Philippine Hospital Association preferably from one of the city private hospitals; and
- Two (2) private citizens from the city, one of whom shall be a duly registered physician, to be appointed by the Commission.

The last four (4) mentioned members shall have terms of four (4) years each, arranged on a staggered basis so that only one is appointed annually, except the initial appointee who shall have terms of one, two, three and four years, respectively. This Council shall elect its Chairman, shall administer the Community Mutual Health Fund, as provided for in Article 255, and implement the rules and regulations set forth by the Commission. It shall disburse funds for the payment of medical and hospital care for its members directly to the institution or medical practitioner concerned. Whenever it may be deemed expedient or necessary, the City Medical Care Council may set up a number of Community Medical Care Councils to be composed of five (5) members chosen from representatives of the community, civic and government sectors. The latter shall assist the City Medical Care Council in the discharge of its functions.

ART. 254. Municipal Medical Care Council. - The Commission shall establish in each municipality a Municipal Medical Care Council of seven (7) members, to be composed of:

- The Municipal Health Officer;
- The Municipal Treasurer;
- A representative of the Mayor;
- A designee of the component society or the Philippine Medical Association preferably a resident medical practitioner;
- A representative of the Philippine Hospital Association in places with registered hospitals, or in their absence, the highest public school official in town; and
- Two (2) private citizens from the municipality, one of whom shall preferably be a duly registered physician, to be appointed by the Commission.

The last four (4) mentioned members shall be appointed for a term of four (4) years each, arranged on a staggered basis so that only one is appointed annually, except the initial appointees who shall have terms of one, two, three, and four years, respectively.

This Council shall elect its own Chairman, Vice-Chairman, and Secretary; administer the Community Health Fund; implement rules and regulations promulgated by the Commission; and disburse funds for the payment of hospitalization and hospital care for its members directly to the institution or medical practitioner concerned within ten (10) days after receipt of the bill.

ART. 255. Community Mutual Health Fund. — (a) There is hereby established in each city or municipality a Community Mutual Health Fund. To this Fund shall accrue the yearly contributions of residents in the city or municipality, and a national government counterpart in aid amounting to one hundred percent (100%) of the amount collected by the city or municipality.

- Community Mutual Health funds of cities or municipalities which, by virtue of the change of corporate personality, or loss of any portion thereof through regrouping, shall be held in trust by the Provincial Medical Care Council until such time as the Commission shall have established the new Medical Care Council and defined its jurisdiction.

Chapter IV

Funding

ART. 256. Revolving Funds. — The gross income of every government hospital shall be constituted into a revolving fund for that particular hospital for the upgrading and expansion of its facilities and for its maintenance and operation, subject to the approval of the Department of Health.

ART. 257. Reparation Allocation. — The Reparations Commission shall allocate and include in accordance with the reparations law, as amended, in its annual schedule beginning with the fourteenth up to the twentieth reparations year the procurement of machineries, equipment and instruments worth at least \$1.5 million annually as the Philippine Medical Care Commission may recommend. The latter shall, with the approval by the Department of Health distribute such machineries, equipment and supplies to the different government hospital and rural health units. A similar allocation of at least \$1.5 million shall likewise be made for the private hospitals involved in this plan pursuant to the provision of this Title.

Title IV

OTHER BENEFITS

Chapter I

Adult Education

ART. 258. Adult Education. — Every employer shall render assistance in the establishment and operation of adult education programs for their workers and employees as prescribed by regulations jointly approved by the Department of Labor and the Department of Education and Culture.

BOOK V

LABOR RELATIONS

Title I

POLICY AND DEFINITIONS

Chapter I

Objectives

ART. 259. Statement of Objectives. - It is the policy of the State:

- To promote free collective bargaining, including voluntary arbitration, as a mode of settling labor disputes;
- To promote free trade unionism as an agent of democracy, social justice and development;
- To rationalize and restructure the labor movement in order to eradicate inter-union and intra-union conflicts;
- To promote the enlightenment of workers concerning their rights and obligations as union members and as employees;
- To provide an adequate administrative machinery for the expeditious settlement of labor disputes; and (f) To ensure a stable but dynamic and just industrial peace.

Chapter II

Definitions

ART. 260. Definitions. — (a) "Commission" means the National Labor Relations Commission established by this Code.

- "Bureau" means the Bureau of Labor Relations and/or Labor Relations Divisions in the regional offices established under Presidential Decree No. 1, in the Department of Labor.
- "Employer" includes any person acting in the interest of an employer, directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as employer.
- "Employee" includes any person in the employ of an employer. The term shall not be limited to the employees of a particular employer, unless this Code so explicitly states. It shall include any individual whose work has ceased as a result of or in connection with am, current labor dispute or because of any unfair labor practice if he has not obtained any other substantially equivalent and regular employment.
- "Labor organization" means any union or association of employees which exists in whole or in part for the purpose of collective bargaining concerning terms and conditions of employment.
- "Legitimate labor organization" means any labor organization duly registered with the Department of Labor and includes any branch or local thereof.
- "Company union" means any labor organization whose function or administration has been assisted by any act defined as unfair labor practice by this Code.
- "Bargaining representative" means a legitimate labor organization or any officer or agent of such organization whether or not employed by the employer.
- "Unfair labor practice" means any unfair labor practice as defined by this Code.
- "Labor dispute" includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating the fixing, maintaining, changing or arranging of terms and conditions of employment regardless of whether or not the disputants stand in the proximate relations of employers and employees.

- "Managerial employee" is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay off, recall, discharge, assign or discipline employees, or to effectively recommend such managerial actions. All employees not falling within this definition are considered rank and file employees for purposes of this Book.

- "Strike" means any temporary stoppage of work by the concerted action of employees.

- "Lockout" means the temporary refusal of any employer to furnish work.

- "Internal union dispute" includes all disputes or grievances arising from any violation of or disagreement over any provision of the constitution and bylaws of a union, including any violation of the rights of union membership provided for in this Code.

Title II

NATIONAL LABOR RELATIONS COMMISSION

Chapter I

Creation and Composition

ART. 261. Creation of National Labor Relations Commission. — A National Labor Relations Commission is hereby established in the Department of Labor. It shall be under the administrative supervision of the Secretary of Labor and shall be composed of a chairman representing the public, two (2) members representing the workers and two (2) members representing the employers.

ART. 262. Headquarters and Regional Branches. — The Chairman of the Commission, subject to the approval of the Secretary of Labor, shall establish as many regional branches as are necessary, each to be headed by a Labor Arbiter. The Commission shall have its main office in the Greater Manila area.

The Chairman of the Commission shall have administrative supervision over all the Labor Arbiters and their staff and personnel.

ART. 263. Appointment and Qualifications. — The Chairman and members of the Commission shall have at least five (5) years of experience in handling labor-management relations and the Labor Arbiters shall have at least two (2) years experience in the same field. In addition, the Chairman and one (1) representative each of the workers and the employers shall be members of the bar.

The members representing the employers and the members representing the workers shall be chosen from among the nominees of workers organizations and employers organizations, respectively.

The Chairman and four (4) members of the Commission shall be appointed by the President and shall hold office for a period of six (6) years without prejudice to reappointment. The Labor Arbiters shall likewise be appointed by the President and shall be subject to Civil Service Law and rules and regulations.

The Secretary of Labor shall appoint the staff and personnel of the Commission and the regional branches as the needs of the service may require subject to the Civil Service Law and rules and regulations.

ART. 264. Salaries. — The Chairman shall receive an annual salary of forty thousand pesos (P40,000). Each of the members shall receive an annual salary of thirty-six thousand pesos (P36,000) and each of the Labor Arbiters shall receive an annual salary of twenty-four thousand pesos (P24,000).

Chapter II

Powers and Duties

ART. 265. Jurisdiction of the Commission. — The Commission shall have exclusive appellate jurisdiction over all cases decided by the Labor Arbiters and compulsory arbitrators.

The Labor Arbiters shall have exclusive jurisdiction to hear and decide the following:

- Unfair labor practice cases;
- Unresolved issues in collective bargaining, including wages, hours of work and other terms and conditions of employment which are usually settled through collective bargaining duly certified by the Bureau of Labor Relations in accordance with the provisions of this Code;
- Claims involving non-payment or under-payment of wages, overtime compensation, separation pay, maternity leave and other money claims arising from employer-employee relations, except claims for workmen's compensation, social security and medicare benefits. The power of the Court of Agrarian Relations to hear and decide representation cases in relation to agricultural workers is hereby transferred to the Bureau;
- Violations of labor standard laws;
- Cases involving household services; and
- All other cases or matters arising from employer-employee relations, unless expressly excluded by this Book.

ART. 266. Powers of the Commission. — The Commission shall have the power and authority:

- To promulgate, subject to the approval of the Secretary of Labor, rules and regulations governing the hearing and disposition of cases before it and its regional branches, as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of this Code;
- To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statements of accounts, agreements, and others, as may be material to a just determination of the matter under investigation, and to testify in any investigation or hearing conducted in pursuance of this Code;
- To conduct investigation for the determination of a question, matter or controversy within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings to any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss any matter or refrain from hearing further or from determining the dispute or part thereof, where it is trivial or where further proceeding by the Commission are not necessary or desirable; and
- To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor.

A person guilty of misbehavior in the presence of or so near the Chairman or any member of the Commission or any Labor Arbiter as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive personalities toward others, or refusal to be sworn to, or to answer as a witness or to subscribe to an affidavit or deposition when lawfully required to do so, may be summarily adjudged in direct contempt by said officials and punished by fine not exceeding two hundred pesos (P200) or imprisonment not exceeding ten (10) days, or both, if it be the Commission, or a member thereof, or by fine not exceeding ten pesos (P10.00) or

imprisonment not exceeding one (1) day, or both, if it be a Labor Arbiter.

The person adjudged in direct contempt by a Labor Arbiter may appeal to the Commission and the execution of the judgment shall be suspended pending the resolution of the appeal upon the filing of such person of a bond on condition that he will abide by and perform the judgment should the appeal be decided against him. Judgment of the Commission on direct contempt is immediately executory and nonappealable.

Indirect contempt shall be dealt with by the Commission or Labor Arbiter in the manner prescribed under Rule 7 1 of the Revised Rules of Court.

ART. 267. Ocular Inspection. - The Chairman, any Commissioner, Labor Arbiter or their duly authorized representatives may, at any time during working hours, conduct an ocular inspection on any establishment, building, ship or vessel, place or premises, including any work, material, implement, machinery, appliance or any object therein, and ask any employee, laborer, or any person, as the case may be, for any information or data concerning any matter or question relative to the object of the investigation.

ART. 268. Execution of Awards. — As soon as a decision, order or award has become final and executory, the Commission or any Labor Arbiter shall, *motu proprio*, or on motion of any interested party, issue a writ of execution requiring the sheriff or the proper officer to execute said decision, order or award of the Commission, the Labor Arbiters, or compulsory or voluntary arbitrators.

ART. 269. Compulsory Arbitrators. — The Commission or any Labor Arbiter shall have the power to seek the assistance of other government officials and qualified private citizens to act as compulsory arbitrators in cases referred to them and to fix and assess the fees of such compulsory arbitrators.

ART. 270. Technical Rules Not Binding. — In any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Commission or any Labor Arbiter, the parties may be represented by legal counsel but it shall be the duty of the chairman, any Commissioner or any Labor Arbiter to exercise complete control of the proceedings at all stages.

ART. 271. Appearance of Non-lawyers. - Non-lawyers may appear before the Commission or any Labor Arbiter only:

- If they represent themselves; and
- If they represent their organization or members thereof.

Title III

BUREAU OF LABOR RELATIONS

ART. 272. Bureau of Labor Relations. — The Bureau of Labor Relations and the Labor Relations Divisions in the regional offices of the Department of Labor shall have original and exclusive authority to act, at their own initiative or upon request of either or both parties, in all inter-union and intra-union conflicts, and all disputes, grievances or problems arising from or affecting labor-management relations, 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 all labor cases, subject to extension by agreement of the

parties, after which the Bureau shall certify the cases to the appropriate Labor Arbiters. The 15-working-day deadline, however, shall not apply to cases involving deadlocks in collective bargaining which the Bureau shall certify to the appropriate Labor Arbiters only after all possibilities of voluntary settlement shall have been tried.

ART. 273. 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, shall be final and binding upon the parties. The National Labor Relations Commission or any court shall not assume jurisdiction over issues involved therein except in case of noncompliance thereof or if there is prima facie evidence that the settlement was obtained through fraud, misrepresentation, or coercion.

ART. 274. Certification of Cases to the Commission. — The Labor Arbiters shall entertain only cases certified to them for compulsory arbitration by the Bureau or by the Regional Director of the Department of Labor.

ART. 275. 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.

ART. 276. Appointment of Bureau Personnel. — The Secretary of Labor may appoint, in addition to the present personnel of the Bureau and the Labor Relations Division, such number of conciliators, examiners and other assistants as may be necessary to carry out the purpose of this Code.

ART. 277. Registry and Certification Division. — The Bureau shall keep a registry of legitimate labor organizations, their branches or locals.

The Bureau is hereby empowered to certify collective bargaining agreements which comply with standards established by the Secretary of Labor for such purpose.

The present Research and Statistics Section of the Conciliation Division of the Bureau is renamed the Collective Bargaining Certification Division.

The Division shall maintain a file of all collective bargaining agreements and other related agreements, records of settlement of labor disputes, and copies of orders, awards and decisions of the Commission and voluntary arbitrators. It shall analyze the terms and conditions of collective bargaining agreements and prepare certifications of collective bargaining agreements.

The file shall be open and accessible to interested parties under conditions prescribed by the Secretary of Labor, except that no specific information submitted in confidence shall be disclosed. The Division shall perform such other functions as the Bureau may require.

ART. 278. Prohibition on Certification Election. — The Bureau shall not entertain any petition for certification election or any other action which may disturb the administration of collective bargaining agreements duly certified by it except under Articles 300 and 304 of this Code.

ART. 279. 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. Conciliators and similar officials shall not testify in any court or body regarding any matters taken up at conciliation proceedings conducted by them.

Title IV

LABOR ORGANIZATIONS

Chapter I

Registration and Cancellation

ART. 280. 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:

- Fifty pesos (P50) registration fee;
- 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;
- The names of all the members it seeks to represent. At least fifty percent (50%) of the employees in the bargaining unit shall be members of the applicant union;
- If the applicant union has been in existence for one or more years, a copy of its annual financial reports; and
- Four (4) 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.

ART. 281. 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.

ART. 282. 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.

ART. 283. Additional Requirements for Federations or National Unions. Subject to Article 284, 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:

- 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;
- The names and addresses of the companies where the locals or chapters operate and the list of all the members in each company involved.

ART. 284. Conditions for Registration of Federations or National Unions. — No federation or national union shall be registered to engage in any organizational activity in more than one industry in any area or region, and no federation or national union shall be registered to engage in any organizational activity in more than one industry all over the country.

The federation or national union which meets the requirements and conditions herein prescribed may organize and affiliate locals and chapters without registering such locals or chapters with the Bureau.

Locals or chapters shall have the same rights and privileges as if they were registered in the Bureau: Provided, That such federation or national union organizes such locals or chapters within its assigned organizational field of

activity as may be prescribed by the Secretary of Labor.

The Bureau shall see to it that federations and national unions shall only organize locals and chapters within a specific industry or region.

ART. 285. Cancellation of Registration; Appeal. — The certificate of registration of any legitimate labor organization, whether national or local, shall be cancelled by the Bureau if it has reason to believe, after due hearing, that the said labor organization no longer meets one or more of the requirements herein prescribed.

The Bureau upon approval of this Code shall immediately institute cancellation proceedings and take such other steps as may be necessary to restructure all existing registered labor organizations in accordance with the objectives envisioned above.

ART. 286. Grounds for Cancellation of Union Registration. — The following shall constitute grounds for cancellation of union registration:

- 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, the list of members who took part in the ratification;
- Failure to submit the documents mentioned in the preceding paragraph within thirty (30) days from adoption or ratification of the constitution and bylaws or amendments thereto;
- Misrepresentation, false statement or fraud in connection with the election of officers, minutes of the election of officers, the list of voters, or failure to submit these documents together with the list of the newly elected/appointed officers and their postal addresses within thirty (30) days from election;
- Failure to submit the annual financial report to the Bureau within thirty (30) days after the closing of every fiscal year and misrepresentation, false entries or fraud in the preparation of the financial report itself;
- Acting as a labor contractor or engaging in the "cabo" system or otherwise engaging in any activity prohibited by law;
- Entering into collective bargaining agreements which provide terms and conditions of employment below minimum standards established by law;
- Asking for or accepting attorney's fees or negotiation fees from employers;
- Checking off union dues, special assessments, or any other fees without duly signed individual authorizations of the members;
- Failure to submit list of individual members to the Bureau once a year or whenever required by the Bureau; and
- Failure to comply with requirements under Articles 283 and 284.

ART. 287. 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.

Incumbent affiliates of existing federations or national unions may disaffiliate only for the purpose of joining a federation or national union in the industry or region in which it properly belongs or for the purpose of operating as an independent labor group.

Chapter II

Rights and Conditions of Membership

ART. 288. Rights and Conditions of Membership in a Labor Organization. — The following are the rights and conditions of membership in a labor organization:

- 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;
- 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 bylaws of the organization; and
- The members shall elect their officers by secret ballot at intervals of not more than three years.

The secretary or any other responsible union officer shall furnish the Secretary of Labor 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) days after the election of officers or from the occurrence of any change in the list of officers of the labor organization;

- 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 balloting impractical, in which case the board of directors of the organization may make the decision in behalf of the general membership;
- No labor organization shall knowingly admit as member or continue in membership any individual who belongs to a subversive organization or who is engaged directly or indirectly in any subversive activity;
- No person who has been convicted of a crime involving moral turpitude shall be eligible for election as a union officer or for appointment to any position in the union;
- 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 moneys or funds unless he is duly authorized pursuant to its constitution and by-laws;
- 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 for the purpose;
- 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 of the members at a general meeting duly called for the authorized by written resolution adopted by the majority purpose;
- Every expenditure of the funds of the organization 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 receipts shall form part of the financial records of the organization.
- 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 or his duly authorized representatives. Any irregularities in the approval of the resolutions shall be a ground for impeachment or expulsion from the organization.
- The treasurer of any labor organization and every officer thereof who is responsible for the accounts 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 since he assumed office or since the last date on which he rendered such account and of the balance remaining in his hands at the time of rendering such account, and of all bonds, securities, and other properties of the organization entrusted to his custody or under his control. The rendering of such account shall be made:

- At least once a year within thirty (30) days after the close of its fiscal year.
- At such other times as may be required by a resolution of the majority the members of the organization; and (3) Upon vacating his office.

The account shall be duly audited and verified by affidavit and copy thereof shall be furnished the Secretary of Labor.

- The books of accounts and other records of the financial activities of any labor organization shall be opened to inspection by any officer or member thereof during office hours;

- 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 at 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 assessments or fees. The record shall lie attested to by the president;

- No special assessments, attorney's fees, negotiation fees or any other extraordinary fees may be checked off from any amounts 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

- It shall be the duty of any labor organization and its officers to inform its members on the provisions of its constitution and bylaws, collective bargaining agreement, the prevailing labor relations system and all their rights and obligations under existing labor laws. For this purpose, registered labor organizations may assess reasonable dues to finance labor relations seminars and other labor education activities for the purpose.

Any violation of the above rights and conditions of membership shall be a ground for cancellation of union registration or expulsion of an officer from office, whichever is appropriate. At least 30 percent (30%) of all the members of a union or any member or members specifically concerned may report such violation to the Bureau. The Bureau shall have the power to hear and decide any reported violation and to mete the appropriate penalty. The decision of the Bureau shall be appealable only on question of law by certiorari to the Supreme Court.

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

Chapter III

Rights of Legitimate Labor Organizations

ART. 289. Rights of Legitimate Labor Organizations. — A legitimate labor organization shall have the right:

- To act or be certified to as the exclusive representative of all the employees in an appropriate collective bargaining unit for purposes of collective bargaining;
- To own property, real and personal, for the use and benefit of the labor organization and its members;
- To sue and be sued in its registered name; and

- To undertake all other activities designed to benefit the organization and its members, including cooperative housing, welfare and other projects not contrary to law,

The incomes and properties of legitimate labor organizations shall be free from taxes, including gifts or donations they may receive from fraternal and similar organizations, local or foreign.

Title V

COVERAGE

ART. 290. Coverage and Employees' Right to Self-organization. — All persons employed in commercial, industrial, agricultural, religious, charitable, educational institutions, or enterprises, whether engaged for profit or not, shall have the right to self-organization and to form, join or assist labor organizations for purposes of collective bargaining.

ART. 291. Ineligibility of Security Personnel to Join Any Labor Organization. — Security guards and other personnel employed for the protection and security of the person, properties and premises of the employer shall not be eligible for membership in any labor organization.

ART. 292. Ineligibility of Managerial Officials to Join Any Labor Organization. — Managerial officials are not eligible to join, assist or form any labor organization

ART. 293. Non-abridgment of Right to Self organization on Religious Grounds. — Notwithstanding any provision of law to the contrary, the right to self-organization shall not be abridged on religious or any other similar grounds.

Title VI

UNFAIR LABOR PRACTICES

Chapter I

Unfair Labor Practices of Employers

ART. 294. Unfair Labor Practices of Employers. — It shall be unfair labor practice for an employer:

- To interfere with, restrain or coerce employees in the exercise of their right to self-organization;
- To require as a condition of employment that a person or an employee shall not join a labor organization or shall withdraw from one to which he belongs;
- 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;
- 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;
- 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 other laws 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 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, except those employees who are already members of another union at the time the collective bargaining agreement is signed;

- To dismiss, discharge, or otherwise prejudice or discriminate against an employee for having given or being about to give testimony under this Code;
- To violate the duty to bargain collectively as prescribed by this Code;
- To pay negotiations 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;
- To violate or refuse to comply with voluntary arbitration awards or decisions relating to the implementation or interpretation of a collective bargaining agreement; and
- Any violation of a collective bargaining agreement.

Chapter II

Unfair Labor Practices of Labor Organizations

ART. 295. Unfair Labor Practices of Labor Organizations. — It shall be unfair labor practice for a labor organization, its officers, agents or representatives:

- To restrain or coerce employees in the exercise of their rights 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;
- 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 to terminate an employee on any ground other than the usual terms and conditions under which membership or continuation of membership is made available to other members;
- To violate the duty, or refuse, to bargain collectively with the employer, provided, it is the representative of the employees;
- 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 fee for union negotiations;
- To ask for or accept negotiations or attorney's fees from employers as part of the settlement of any issue in collective bargaining or any other dispute;
- To violate or refuse to comply with voluntary arbitration awards or decisions relating to the implementation or interpretation of a collective bargaining agreement; and
- Violation of a collective bargaining agreement.

Chapter

III Concept

ART. 296. Concept of Unfair Labor Practice. — The concept of unfair labor practice is hereby modified. Henceforth it shall be considered merely as an administrative offense rather than a criminal offense. Unfair labor practice complaints shall, therefore, be processed like any ordinary labor disputes.

Title VII

COLLECTIVE BARGAINING AND ADMINISTRATION OF AGREEMENTS

ART. 297. Procedure of Collective Bargaining. —The following procedures shall be observed in collective bargaining:

- When a party desires to negotiate an agreement, it shall serve a written notice upon the other with a statement of its proposals. The other party shall make a reply thereto not later than ten (10) days from receipt of such notice;
- 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) days from the date of request;
- If the dispute is not settled, the Bureau shall intervene upon request of either or both parties or at its own initiative and it shall be the duty of the parties to participate fully and promptly in the conciliation meetings the Bureau may call;
- During the conciliation proceedings in the Bureau, the parties are prohibited from doing any act which may disrupt or impede the early settlement of the disputes;
- The Bureau shall exert all efforts to settle disputes amicably and encourage the parties to submit their case to a voluntary arbitrator; and
- If no amicable settlement is reached after exhausting all possibilities of conciliation, the Bureau shall certify the dispute to a Labor Arbiter for compulsory arbitration. The Labor Arbiter shall decide the case within forty-five (45) days from the first hearing.

ART. 298. 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 the employer and the representatives of the employees to bargain collectively in accordance the provisions of this Code.

ART. 299. 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.

ART. 300. Duty to Bargain Collectively When There Exists a Collective Bargaining Agreement. — When there exists a collective bargaining agreement, the duty to bargain collectively shall also mean that neither party shall terminate or modify such agreement during its lifetime. However, either party can serve a written notice to terminate or modify the agreement at least sixty (60) days prior to its expiration date. It shall be the duty of both parties to keep the status quo and to continue in full force and effect the terms and conditions of the existing agreement during the 60-day period and/or until a new agreement is reached by the parties.

ART. 301. Injunctions 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.

ART. 302. Appeal. — Decisions, awards, or orders of the Labor Arbiters or compulsory arbitrators are final and executory unless appealed to the Commission by any or both of the parties within ten (10) days from receipt of such awards, orders, or decisions. Such appeal may be entertained only on any of the following grounds:

- If there is prima facie evidence of grave abuse of discretion on the part of the Labor Arbiter or compulsory arbitrator;
- If the decision, order, or award was secured through fraud or coercion, including graft and corruption; and
- If made purely on question of law.

To discourage frivolous or dilatory appeals, the Commission or the Labor Arbiters shall impose reasonable penalty, including fines or censure, upon the erring parties.

In all cases, the appellant shall furnish a copy of the memorandum of appeal to the other party who shall file an answer not later than ten (10) days from receipt thereof.

The Commission shall decide all cases within twenty (20) working days from receipt of the answer of the appellee; otherwise, the appealed decision or award shall be considered affirmed.

The decision of the Commission shall be final and unappealable, except in the following cases:

- By certiorari to the Supreme Court on question of law; and
- Where the case involves national interest, in which case it may be appealed to the President of the Philippines upon recommendation of the Secretary of Labor within 10 days from receipt of such decision by the appealing party.

ART. 303. Exclusive Bargaining Representative. — 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 employer.

ART. 304. Procedure Governing Representation Issues. — When a question concerning the representation of employees is submitted to it, the Bureau 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 as the appropriate bargaining agent. In such cases, the Bureau shall provide for a speedy and appropriate hearing upon due notice and if there is any reasonable doubt as to whom the employees have chosen as their representative for the purpose of collective bargaining, the Bureau shall order a secret ballot election to be conducted by the Bureau to ascertain who is freely chosen representative of the employees concerned, under such rules and regulations as the Bureau may prescribe, at which balloting representatives of contending parties shall have the right to attend as inspectors.

No certification election issue shall be entertained by the Bureau in any collective bargaining unit if a certified collective bargaining agreement exists between the employer and a legitimate labor organization, except within sixty (60) days prior to the expiration of the life of such certified collective bargaining agreement. The organization receiving the majority of the votes cast in such election shall be certified by the Bureau as the exclusive bargaining representative of the employees concerned.

ART. 305. Requisites for Certification Election. — Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least 30% of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit.

ART. 306. When an Employer May File a Petition. — When requested to bargain collectively, an employer 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.

ART. 307. Appeal on Certification Election Orders. - Any party to an election may appeal the order or results of the election to the Bureau on the ground that the rules and regulations or parts thereof established by the Secretary of Labor for the conduct of the election have been violated. Such appeal shall be decided within fifteen (15) working days. The decision of the Bureau shall be final and executory, except on question of law by certiorari to the Supreme Court.

ART. 308. Administration of Agreements. - The parties to a collective bargaining shall include in their agreement provisions to ensure mutual observance of the terms and conditions of the agreement and to establish a machinery for the adjustment of grievances.

ART. 309. Grievance Machinery. - All disputes, grievances or matters arising from the implementation or interpretation of a collective bargaining agreement shall be threshed out in accordance with the grievance procedure provided by such agreement.

ART. 310. Voluntary Arbitration. — Disputes, grievances or matters not settled through the grievance procedure shall be referred to and decided or settled through the prescribed voluntary arbitration procedure in the collective bargaining agreement.

Every collective bargaining agreement shall designate in advance an arbitrator or panel of arbitrators or include a provision making the selection of such arbitrator or panel of arbitrators definite and certain when the need arises. Such arbitrator or panel of arbitrators shall have exclusive and original jurisdiction to settle or decide all disputes, grievances or matters arising from the implementation or interpretation of a collective bargaining agreement after going through the grievance procedure. The Labor Arbiter or the Bureau shall not entertain such disputes, grievances or matters.

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

Title VIII

SPECIAL PROVISIONS

ART. 311. Study of Labor-Management Relations. — The Secretary of Labor shall have the power and it shall be his duty to inquire into:

- The existing relations between employers and employees in the Philippines;
- The growth of associations of employees and the effect of such associations upon employer-employee relations;
- The extent and results of the methods of collective bargaining in the determination of terms and conditions of employment;
- The methods which have been tried by employers and associations of employees for maintaining mutually satisfactory relations;
- Desirable industrial practices which have been developed through collective bargaining and other voluntary arrangements;

- The possible ways of increasing the usefulness and efficiency of collective bargaining for settling differences;
- The possibilities for the adoption of practical and effective methods of labor-management cooperation;
- Any other aspects of employer-employee relations concerning the promotion of harmony and understanding between the parties; and
- The relevance of labor laws and labor relations to national development.

The Secretary of Labor shall also inquire into the causes of industrial unrest and take all the necessary steps within his 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 judgment may be desirable for the maintenance and promotion of industrial peace.

ART. 312. Visitorial Power. — The Secretary of Labor or his duly authorized representative is hereby empowered to inquire, from time to time, into the financial activities of legitimate labor organizations 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 by-laws.

ART. 313. Tri-partite Conferences. — The Secretary of Labor may call from time to time a national tri-partite conference of representatives of employers, workers and government for the consideration and adoption of voluntary codes of principles designed to promote industrial peace based on social justice and to align labor-management relations with established priorities in economic and social development.

The Secretary of Labor is also authorized to call from time to time a conference of representatives of employers, labor organizations and government in any industry or region for the same purpose.

In calling a national or industrial or regional conference, the Secretary of Labor is directed to act in consultation with representatives of employers' and workers' organizations concerned.

ART. 314, Government Employees. — The terms and conditions of employment of all government 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 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.

ART. 315. Miscellaneous Provisions. — (a) Pending the restoration of the right to strike and the right to lockout, all strike funds are hereby transformed into labor research and education funds. The collection of strike contributions is hereby prohibited. However, all unions are authorized to collect reasonable contributions for their labor education and research funds.

- No employer may shutdown his establishment or dismiss or terminate the service of regular employees with at least one year of service without a previous written clearance from the Secretary of Labor.
- Any employee whose length of service is more than six (6) months whether employed for a definite period or not, and regardless of whether the service is continuous or broken, shall be considered as a regular employee for the purpose of membership in any legitimate labor organization.

ART. 316. Enforcement of Decisions, Orders and Awards. — To ensure compliance with its decisions, orders and awards and those of compulsory or voluntary arbitrators, the Commission may take any measure under existing laws, decrees, and general orders as may be necessary, including the imposition of administrative fines which shall not be less than P500 nor more than P10,000.00

BOOK VI

POST EMPLOYMENT

Chapter I

Termination of Employment

ART. 317. Coverage. — The provisions of this Chapter shall apply to all establishments or undertakings, whether for profit or not, in cases of employment without a definite period.

ART. 318. Security of Tenure. — In cases of employment without a definite period the employer shall not terminate the services of an employee except for a just cause or when authorized by this Chapter. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and to his back wages computed from the time his compensation was withheld from him up to the time of his reinstatement.

ART. 319. Employment Without a Fixed Period. — An employment shall be deemed to be without a definite period for purposes of this Chapter where the employee has 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 employee or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season.

ART. 320. Probationary and Fixed-Period Employment. — The termination of employment of probationary employees and those employed with a fixed period shall be subject to such regulations as the Secretary of Labor may prescribe to prevent the circumvention of the right of the employees to be secured in their employment as provided herein.

ART. 321. Termination by Employer. — An employer may terminate an employment without a definite period for any of the following just causes:

- The closing or cessation of operation of the establishment or enterprise, or where the employer has to reduce his work force by more than one-half due to serious business reverses, unless the closing is for the purpose of circumventing the provisions of this Chapter;
- Serious misconduct or willful disobedience by the employee of the orders of his employer or representative in connection with his work;
- Gross and habitual neglect by the employee of his duties;
- Fraud or willful breach by the employee of the trust reposed in him by his employer or representative;
- Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or representative; and
- Other causes analogous to the foregoing.

ART. 322. Reduction of Personnel. - The termination of employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses, and other similar causes, shall entitle the employee affected thereby to separation pay. In case of termination due to the installation of labor-saving devices or redundancy, the separation pay shall be equivalent to one (1) month pay or to at least one-half (1/2) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and other similar causes, 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.

ART. 323. Disease as Ground for Termination. —An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as the health of his co-employees: Provided, That he is paid separation pay equivalent at least to 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.

ART. 324. Termination by Employee. — (a) An employee may terminate without just cause the employee-employer relationship by serving a written notice on the employer at least one (1) month in advance. The employer upon whom no such notice was served may hold the employee liable for damages.

- An employee may put an end to the relationship without serving any notice on the employer for any of the following just causes:
- Serious insult by the employer or his representative on the honor and person of the employee;
- Inhuman and unbearable treatment accorded the employee by the employer or his representative;
- Commission of a crime or offense by the employer or his representative against the person of the employee or any of the immediate members of his family; and
- Other causes analogous to any of the foregoing.

ART. 325. When Employment Not Deemed Terminated. — The bona fide suspension of the operation of a business or undertaking for a period not exceeding six (6) months, or the fulfillment by the employee of a military or civic duty shall not terminate employment. In all such cases, the employer shall reinstate the employee to his former position without loss of seniority rights if he indicates his desire to resume his work not later than one (1) month from the resumption of operations of his employer or from his relief from the military or civic duty.

Chapter II

Retirement from the Service

ART. 326. Retirement. — Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining or other agreement.

BOOK VII

PENAL PROVISIONS, PRESCRIPTIONS, TRANSITORY AND FINAL PROVISIONS

Chapter I

Penal Provisions and Liabilities

ART. 327. Penalties. — Any violation of the provisions of this Code or of the rules and regulations issued thereunder shall be punished with a fine of not less than P1,000 nor more than P10,000 and/or imprisonment for the duration of the violation or non-compliance or until such time that rectification of the violation has been made, at the direction of the appropriate authority.

ART. 328. Who are Liable When Committed by Other Than a Natural Person. — If the offense is committed by a

corporation, trust, firm, partnership, association or any other entity, the manager or, in his default, the person acting as such when the offense was committed, shall be responsible.

Chapter II

Prescription of Offenses and Claims

ART. 329. Offenses. — Offenses penalized under this Code and the rules and regulations issued pursuant thereto shall prescribe in three (3) years.

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

ART. 330. Money Claims. — Civil actions involving nonpayment or underpayment of wages, overtime compensation, separation pay, maternity benefits, and other money claims and benefits arising from employer-employee relations, may be commenced within three (3) years from the time the cause of action accrued. Such actions shall be forever barred unless commenced within such period.

ART. 331. Institution of Civil Actions. — Civil actions involving claims specified in the immediately preceding Article may be brought before the appropriate court or entity independently of the criminal action that may be instituted in the proper courts.

Chapter III

Transitory and Final Provisions

ART. 332. Application of Law Enacted Prior to this Code. — All actions or claims accruing prior to the effectivity of this Code shall be determined in accordance with the laws, rules and regulations in force at the time of their accrual.

ART. 333. Secretary of Labor to Initiate Integration of Maternity Leave Benefits. — Within six (6) months after this Code takes effect, the Secretary of Labor shall initiate such measures as may be necessary for the integration of maternity leave benefits into the Social Security System in the case of private employment and the Government Service Insurance System in the case of public employment.

ART. 334. Funding of the Overseas Employment Development Board and the National Seamen Board. — The Overseas Employment Development Board and the National Seamen Board referred to in Articles 16 and 20, respectively, of this Code shall initially be funded out of the unprogrammed fund of the Department of Labor and the National Manpower and Youth Council.

ART. 335. Abolition of the Bureau of Workmen's Compensation. — The present Bureau of Workmen's Compensation, the Workmen's Compensation Commission, and the Workmen's Compensation Units in the Department of Labor are hereby abolished and all officials and personnel thereof, as may be necessary and qualified, shall be transferred to and absorbed by the Commission, the GSIS and the SSS, subject to Presidential Decree No. G, Letters of Instruction Nos. 14 and 14-A and the Civil Service Law and rules.

ART. 336. Continuation of Insurance Policies and Indemnity Bonds. — All workmen's compensation insurance policies and indemnity bonds for self-insured employers existing upon the effectivity of this Code shall remain in force and effect until the expiration dates of such policies or the lapse of the period of such bonds, as the case may be, but in no case beyond December 31, 1974. Claims may be filed against the insurance carriers and/or self-insured employers for causes of action which accrued during the existence of said policies or authority to self-insure.

ART. 337. Abolition of the Court of Industrial Relations and the National Labor Relations Commission. — The Court of Industrial Relations and the National Labor Relations Commission established under Presidential Decree No. 21 are hereby abolished. All unexpended funds, properties, equipment and records of the Court of Industrial Relations, and such of its personnel as may be necessary, are hereby transferred to the Commission 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 shall enjoy benefits granted under existing laws.

ART. 338. Transfer of Labor Relations Cases. — All cases pending before the Court of Industrial Relations and the National Labor Relations Commission established under Presidential Decree No. 21 at the time of the passage of this Code should be transferred to and processed by the National Labor Relations Commission created under this Code in accordance with the procedure laid down herein.

ART. 339. 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 Thirty-five and such other pertinent laws, rules and regulations. In any case, no layoff shall be effected until funds to cover the gratuity and/or retirement benefits of those laid off are duly certified as available.

ART. 340. Severability 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.

ART. 341. Repealing Clause. — All provisions of existing laws, orders, decrees, rules and regulations inconsistent herewith are hereby repealed.

Done in the City of Manila, this 1st day of May, in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR

Executive Secretary

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