

# [ PRESIDENTIAL DECREE NO. 850, December 16, 1975 ]

## AMENDING CERTAIN ARTICLES OF PD 442 ENTITLED "LABOR CODE OF THE PHILIPPINES"

**WHEREAS**, PD 442, as amended, otherwise known as the Labor Code of the Philippines, is designed to be a dynamic and growing body of laws which will reflect continuously the demands of development and the lessons of experience:

**WHEREAS**, in order to fully orient the Code towards economic development and justice, the Department of Labor has been conducting studies and discussions on the Labor Code with responsible public officials, labor organizations, employers' organizations, civic, professional and technical associations, educational institutions, and other knowledgeable groups representing various sectors of the economy;

**WHEREAS**, as a result of these discussions and consultations, especially the National Tripartite Conference on the Labor Code at the Development Academy of the Philippines last 24-26 October 1975, as well as the experience of the Department of Labor, it has been found necessary to make adjustments in the text of the Labor Code in order to fully align it with the over-riding priority of development and justice;

**NOW, THEREFORE, I, FERDINAND E. MARCOS**, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

**SECTION 1.** Articles 13 to 39 of Title I, Book One of the Labor Code, except Articles 14, 26, 29, 32, 34 and 35 thereof, are hereby amended to read as follows:

**"ART. 13. Definitions.**—(a) "Worker" means any member of the labor force, whether employed or unemployed.

(b) "Recruitment and placement" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: *Provided*, That any person or entity which, in any manner, offers or promises for a fee employment to two or more persons shall be deemed engaged in recruitment and placement.

(c) "Private fee-charging employment agency" means any person or entity engaged in the recruitment and placement of workers for a fee which is charge, directly or indirectly, from the workers.

(d) "License" means a document issued by the Department of Labor authorizing a person or entity to operate a private fee-charging employment agency.

(e) "Private non-fee-charging employment agency" means any person or entity engaged in the recruitment and placement of workers without charging directly or indirectly, any fee whether from the workers or from the employers.

(f) "Authority" means a document issued by the Department of Labor authorizing a person or entity to operate a private non-fee charging employment agency.

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

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

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

**"ART. 15. *Public Employment Offices.***—The public employment offices of the Department of Labor shall undertake the recruitment and placement of workers. The public employment offices shall be under the administrative and technical supervision of the Bureau of Employment Services which shall establish regional offices to oversee their operations."

**"ART. 16. *Private recruitment.***—Except as provided in Chapter II of this Title, no person or entity, other than the public employment offices, shall engage in the recruitment and placement of workers. However, schools and other civic or charitable organizations or employers for their own use may continue undertaking placement services under such rules and regulations as the Secretary of Labor may promulgate."

**"ART. 17. *Overseas Employment Development Board.***—(a) 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, to protect their rights to fair and equitable employment practices, and to promote the welfare of Filipino emigrants. It shall have the power and duty:

1. To meet the increasing demand for trained and competent Filipino emigrants;
2. To promote the development of skills and the careful selection of Filipino workers for overseas employment;
3. To promote the overseas employment of Filipino workers under a government-to-government arrangement; a government-to-government arrangement;
4. To secure the best possible terms and conditions of employment for Filipino emigrants and to ensure compliance thereof;
5. To maintain a registry of Filipino emigrants; and
6. To generate foreign exchange from the earnings of Filipinos employed under its program.

(b) The Board is authorized to establish offices abroad to attain the above objectives."

**"ART. 18. *Ban on direct-hiring.***—No employer may hire a Filipino for overseas employment except through the Board. Direct-hiring by members of the diplomatic corps, international organizations and such

other employers as may be allowed by the Secretary of Labor is exempted from the provision."

**"ART. 19. *Registration of emigrant workers.*—**

- a. To enable the Board to establish a data bank in aid of national manpower policy of formulation, any individual who has an approved application to emigrate to any country shall, before filing an application for passport with the Department of Foreign Affairs, register with the Overseas Employment Development Board. The registration shall include among others his name, address, civil status, profession, occupation, country of destination, and such other information as the Board may require.
- b. Emigrants residing abroad who are not registered with the Board (shall register with the Labor Attache or in his absence with any appropriate official of the Philippine Embassy or consulate nearest their residence or place of work in accordance with the preceding paragraph, and such registration shall be reported to the Board.
- c. The Board shall promote the welfare of registered emigrants and extend appropriate assistance to them whenever possible.

**"ART. 20. *National Seamen Board.*—(a)** A National Seamen Board in hereby created to establish and maintain a comprehensive seamen program. It shall have the power and duty:

1. To provide free placement services for seamen;
2. To recurs the best possible terms and conditions of employment for seamen, and to ensure compliance thereof;
3. To maintain a complete registry of all Filipino seamen; and
4. To regulate the activities of agents or representatives of shipping companies in the hiring of seamen for overseas employment.

(b) The Board shall have original and exclusive jurisdiction over all matters or cases including money claims involving employer-employee relations, arising out of or by virtue of any law or contracts involving Filipino seamen for overseas employment. The decision of the board shall be final and inappealable. The Board shall promulgate appropriate rules and regulations governing the processing, settlement, and/or adjudication of such cases."

**"ART. 21. *Foreign service role and participation.*—**To provide ample protection to Filipino workers abroad, the labor attaches, the labor reporting officers duly designated by the Secretary of Labor and the Philippine diplomatic or consular officials concerned shall, even with out prior instruction or advice from the home office, exercise the power and duty:

- a. To provide all Filipino workers within their jurisdiction assistance on all matters arising out of employment;
- b. To ensure that Filipino workers are not exploited or discriminated against;
- c. To verify and certify as requisite to authentication that the terms and conditions of employment in contracts involving Filipino workers are in accordance with the Labor Code and rules and regulations of

the Overseas Employment Development Board and the National Seamen Board.

- d. To make continuing studies or research and recommendations on the various aspects of the employment market within their jurisdiction;
- e. To gather and analyze 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; and
- f. To perform such other duties as may be required of them from time to time."

**"ART. 22. *Mandatory remittance of foreign exchange earnings.***— It shall be mandatory for all Filipino workers abroad to remit a portion of their foreign exchange earnings to their families, dependants, and/or beneficiaries in the country in accordance with rules and regulations prescribed by the Secretary of Labor."

**"ART. 23. *Composition of the Boards.***—(a) The Overseas Employment Development Board shall be composed of the Secretary of Labor as Chairman, the Undersecretary of Labor as Vice-Chairman and a representative each of the Department of Foreign Affairs, the Central Bank, the Department of Education and Culture, the National Manpower and Youth Council, a workers' organization and an employers' organization, as members.

(b) The National Seamen Board shall be composed of the Secretary of Labor as Chairman, the Undersecretary of Labor as Vice-Chairman, the Commandant of the Philippine Coast Guards, and a representative each of the Department of Foreign Affairs, the Central Bank, the Maritime Industry Authority, a national seafarers' organization and a national shipping association, as members.

(c) The Boards shall be attached to the Department of Labor for policy and program coordination. They shall each be assisted by a Secretariat headed by an Executive Director who shall be a Filipino citizen with sufficient experience in manpower administration including overseas employment activities. The Executive Director shall be appointed by the President of the Philippines upon the recommendation of the Secretary of Labor, and shall receive an annual salary as fixed by law. The Secretary of Labor shall appoint the other members of the Secretariat.

(d) The Auditor General shall appoint his representative to the Boards to audit their respective accounts in accordance with auditing laws and pertinent rules and regulations."

**"ART. 24. *Boards to issue rules and collect fees.***—The Boards shall issue appropriate rules and regulations to carry out their functions. They shall have the power to impose and collect fees from employers concerned, which shall be deposited to the respective accounts of said Boards and be used by them exclusively to promote their objectives."

**"ART. 25. *Authority or license to recruit.***—

- a. No person or entity may operate a private non-fee-charging employment agency without an authority from the Department of Labor. His Secretary of Labor shall issue rules and regulations establishing the requirements and the procedure for the issuance of an authority.
- b. No person or entity may operate a private fee-charging employment agency without a license from the Department of Labor. No new application for a license to operate such agency shall be entertained upon the effectivity of the Code. The Department of Labor shall, within four years from the effectivity of the Code, phase out the operation of all private fee-charging employment agencies, including those engaged in the overseas recruitment and placement of individuals for personal services or to make up the crew of a vessel.
- c. Unless sooner revoked, cancelled or suspended for cause by the Secretary of Labor, 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. Said authority or license to hire or recruit may be renewed only if the holders thereof comply with all pertinent provisions of the Code and its implementing rules and regulations."

**"ART. 27. *Citizen requirement.***—No authority to recruit or hire shall be issued or renewed, and no license shall be renewed, except in favor of Filipino citizens or corporations, partnerships or entities at least sixty percent of the authorized capital stock of which is owned and controlled by Filipino citizens."

**"ART. 28. *Capitalization.***—All applicants for authority to hire or renewal of license to recruit are required to have such substantial capitalization as determined by the Secretary of Labor.

**"ART. 30. *License Fee.***—Any private fee-charging employment agency applying for renewal of its license 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. 31. *Bonds.***—Any private fee-charging employment agency and authority holder shall post a cash bond in the amount of P50,000 and P10,000 respectively and a surety bond of P150,000 and P30,000 respectively, 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 bonds for any claim or injury covered and guaranteed by the bonds."

**"ART. 33. *Reports on employment status.***—Whenever the public interest so requires, the Secretary of Labor may direct all persons or entities